B. Separation of Judicial and Executive Functions

1951 **File No.** Legal Department

B **BRANCH**

Subject:— L. A. Bill No. III of 1951.

The Bombay Separation of Judicial and Executive Functions Bill, 1957

Bombay Act No. XXIII of 1957

(Pts I, II and III bound together)

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Lot 52.

File No. B. Separation of Judicial and Executive Functions 1957

Gen. 194 e.

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The recommendations of the report of the Committee on the separation of the Judiciary from the Executive are summarised in Chapter V. Schedule D. contains suggestions for the amendment of the Criminal Procedure Code and other acts. Out of the recommendations in Chapter V, Nos. 1 to 6,8 to 11 and 14 and 15 contains proposals which involve legislation. Other recommendations are of an executive nature while as regards recommendation No. 12 which relates to guardianship matter, the Committee is not unanimous. The principal recommendations of the Committee are :

(1) That magistrates should be divided into two classes.- (a) Judicial and (b) Executive;

(2) Whereever a judicial inquiry or judicial decision is required, the matter should be dealt with by Judicial magistrates.

At the same time the Committeem agrees that the Collectors, Deputy Collectors, Mamlatdars and Aval Karkuns should continue to exercise respectively the power of District Magistrates, Sub Divisional Magistrate and Subordinate Magistrate for the purpose of the maintenance of law and order. In view of this recommendation, the suggestion of the Committee in Schedule D for the amendment of such enactments as the State Prisoners' Regulation of 1827 or the Bombay Public Security Measures Act, 1947 is not correct and is inconsistent with their recommendations.

2. A tentative draft of the Bill to provide for the separation of judicial and executive functions is sent herewith. The Bill is drafted taking into consideration the recommendations of the Committee and of the Commissioners ; and provides for the constitution of two kinds of Magistrates - Judicial and Executive - as recommended by the Committee. The Bill also provides for amendments with a view to doing away with third

class.....

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class Magistrates. (vide para.101 of the Committee's report). H.M.(Land) endorse this view.

3. Clause 4 of the Bill is intended to take power to Government to amend the entries in the Schedule appended to the Bill if and when required.

4. The Magisterial powers of a purely executive nature have been left untouched. The Committee has recommended that the powers under Chapter VIII of the Criminal Procedure Code should be left to the Executive (vide paras. 108 and 109 of the Report). For this reason the Bombay Public Security Measures Act, 1947, is not proposed to be amended although the Committee has suggested that it should be amended (vide Sch. D to the Report, item 16).

5. The H.D. is requested to forward the draft Bill to the High Court for its remarks. As the Bill also proposes to amend some Acts the subject-matter of which falls in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935, it will be necessary to obtain the concurrence of the Government of India according to the instructions of the Government of India (vide the G. of I., Ministry of Home Affairs, letter No.5/84/48 Judl. dated 17.9.48 circulated with H.D.endorsement No.959/4-IV-B. dated 29th December 1948).

6. H.D. will not doubt append a suitable S.O.R. to the Bill.

7. In addition to the Acts proposed to be amended by the draft Bill, the following Acts also need amendments. However, as these Acts fall in the Federal Legislative List, the Government of India will have to be moved in the matter:-

1. The Metal Tokens Act,1889, section5(2).
2. The Inland Steam Vessels Act, 1917, sections 33, 35 and 38.
3. The Indian Securities Act, 1920, section 13.

Sd/- J.R.Dhurandhar,
3/2/49.
Additional Secretary to Government

U.R. to H.D. No. 1326, dated the 3rd Feb. 1949.

Legal Department.

One of the points raised by Secretary, H.D., is whether it is absolutely necessary to omit all references to III Class Magistrates in the Criminal Procedure Code. Government may not appoint any persons as III Class Magistrates. The Lokur Committee in paragraph 101 of their report has recommended the abolition of III Class Magistrates and as directed by H.M. (Law) the amendments with this view were incorporated in the draft Bill. (Vide para 2 of this Department U.R. No. 1326, dated 3-2-1949). If Secretary, H.D's view is accepted, the amendments proposed in the following provisions of the Code will not be necessary:-

Sections 3(2), 6, 12(1), 14(1), 15(1), 29A, 32 (1), 144 (1), 167(2) Proviso, 206(1), 250(2) and (3), 261, 349(1), 407(1), 528D(2), 562(1) Proviso, and Schedules III and IV ; and new sections 6A and 37 will have to be amended.

2. Another point raised by Secretary, H.D., is that Executive Magistrates will have power to issue warrants and should therefore also have power to issue proclamations. He presumes that Executive Magistrates will also have courts. In this view amendments proposed in sub-sections (6B) and (6C) of section 88 will not be necessary. Similarly the amendments proposed in sections 113, 114, 117, 125, 126, 406 and 406A will not be necessary. If the proceedings under Chapter VIII of the Criminal Procedure Code are to go back to Executive Magistrate as stated by Secretary, H.D., no amendments need be made in sections 435 to 438. However as recommended by the Committee at page 48 of the~~xxx~~ report, executive instructions may be issued to District Magistrates as regards the exercise of the powers under those sections.

As a consequence it will also be necessary to

P.T.O.

drop the proposed new section 442A.

3. Part I of the Schedule to the draft Bill has been revised accordingly and a revised Part I is sent herewith. It may be substituted for the existing Part I of the Schedule.

4. In the revised Part I, the general scheme of Schedules III and IV to the Code is not changed as suggested by Secretary, Home Department.

Sd/- J.R.Dhurandhar,
20/3.

Additional Secretary to Government.

U.R. to H.D. No. 3189, dated the 24th March 1949.

4-Cs.

M.V.V.
17/7.

Legal Department.

The first point raised by the High Court is that it should be provided in the Criminal Procedure Code that the conferment of Judicial Powers on Magistrates should vest entirely with the High Court and not with the Provincial Government. The High Court has not ignored ~~ignore~~ the provisions of section 256 of the Government of India Act, 1935; but instead of taking trouble to express its own opinion has suggested that Government should consider the effect of it on the amendments suggested. Section 256 of the Government of India Act, 1935, ~~xpxxx~~ provides that no recommendation shall be made for the grant of Magisterial powers or enhanced Magisterial powers to, or the withdrawal of any Magisterial powers from, any person save after consultation with the District Magistrate or the Chief Presidency Magistrate. It is no doubt true that the Government of India, Act, 1935, does not contain any provision specifying the authority which has to confer magisterial powers. But in the absence of an express provision to that effect, it must be presumed that the Parliament had the existing law in view and inserted the provision in ~~x~~ view of the provisions of the law in force in 1935. According to the rules of interpretation applicable to the construction of a Constitution Act, the facts existing at the time with respect to which the Legislature was legislating are legitimate topics for consideration (Henrrietta Marie Edwards vs. A.G. for Canada (1930) A.C. 124). According to that law the power entirely rests with the Provincial Government. Para. 341 of the Joint Parliamentary Committee's report on which section 256 was based, states that in the case of Magistrates in regard to their promotions the Minister should ask for the recommendation of the District Magistrate, in consultation, where necessary with the Sessions Judge of the

....District in which the subordinate Magistrate Work
Section 256 as it stands must be interpreted to imply that it is for the Provincial Government to confer or withdraw Magisterial powers and that such conferment or withdrawal must be made on the recommendation of the District Magistrate who is an executive officer and in the Presidency Towns on the recommendation of the Chief Presidency Magistrate who to a certain extent also is an executive functionary. Judicial officers are a part of the Civil Service of the Crown and are included in Chapter II of Part X which is headed Civil Services. Every member of the Civil Service holds his post during the pleasure of the .Crown. When the constitution Act intended to transfe the control to the High Court over its staff, it has done so by an express provision in section 242(4). So long therefore section 256 is on the statute book, it will be inconsistent with the scheme of the Consti tution Act to transfer the conferment or withdrawal o magisterial powers to any authority except the Provis cial Government. Consistent with the provisions of section 256, it has therefore been provided that such conferment or withdrawal shall be made after consulta tion with the High Court. The High Court has admitted that this practice is salutory. The High Court has ignored the fact in regard to the civil powers of Judges under the Bombay Civil Courts Act, 1869. The said power rests with the Provincial Government. Although the said power is exercised by the Provincia Government on the recommendation of the High Court, the final sanctioning authority is the Provincial Government. Neither the Special Committee nor the High Court has thought of suggesting that unless the Bombay Civil Courts Act, 1869, is amended in this respe the independence of Civil Judiciary cannot be maintai and the scheme of the separation of Judiciary and Executive cannot be complete. The amendments propose

...In the Criminal Procedure Code in regard to the conferment of judicial powers on Magistrates go to the fullest extent to which one can go under the present Constitution and give effect to a practice which is not only salutory in the words of the High Court, but is in conformity with the practice followed in regard to civil powers. No change should therefore be made in the amendments proposed.

2. New Section 37A : The view expressed by the High Court that the intention is that the High Court should confer powers on Special Judicial Magistrates and Government on Executive Magistrates is correct. This position is clear from the revised draft of section 37A which omits the words "all Taluka Magistrates" occuring in the earlier draft. It appears that the Home Department had not forwarded the revised draft of the Bill to the High Court.

3. Amendment of section 36 :- The High Court desires that it should be made clear that Special Magistrates have no ordinary powers specified in the Schedule. This can be given effect to by the addition of the words "other than Special Judicial and Executive Magistrates" after the words "Judicial and Executive Magistrates" in clause 11 of the Schedule relating to the Criminal Procedure Code.

4. Section 144: The High Court has suggested that orders under section 144 should be made by Judicial Magistrates alone. This cannot be accepted. The Orders made under the section have been held to be of quasi-Judicial Character and are made subject to the revision by the High Court by the omission of section 435(3) of the Criminal Procedure Code. The Orders relate to the maintainance of law and order and the proposal that the orders should be made by Judicial Magistrates is absurd. Even the Committee has not made the suggestion.

5. Amendments of sections 186,249 and 349 of the

Code:- In the revised draft the general scheme of Schedule III and IV to the Code is left untouched. The remarks made by the High Court in respect of the amendments to these three sections therefore need not be considered.

6. Amendment of section 528: The view expressed by the High Court that the amendment of section 528 would be repugnant to the provisions of section 193 does not appear to be correct in view of the opening words "Except as otherwise expressly provided by this Code or by any other law for the time being in force" of the latter section. The withdrawal of the case does not necessarily mean that the Sessions Judge should try the case himself. He can direct any other Judicial Magistrate to try the case.

7. The High Court has not objected to the provision which empowers Government to amend the entries in the Schedules. The High Court has appreciated the desirability and necessity of such a provisions in a bill which involves numerous amendments to various Acts.

8. The points raised in the note of Secretary, Home Department (Mr. Dehejia) were dealt with in the revised draft which was sent to Home Department with U.R. No. 3189, dated the 24th March 1949.

Sd/- J.R. Dhurandhar,
1/6.

Additional Secretary to Government.

U.R. to H.D. No. 6147, dated the 1st June 1949.

4-Cs.

M.V.V.
17/7.

Legal Department.

The amendment made by the H.D. in clause 11 of Part I of the Schedule to the draft Bill relating to the Criminal Procedure Code is in order.

2. Clause 4 of the draft Bill at page 35 ante provides that the Provincial Government may by notification in the Official Gazette amend the entries in the Schedule to the Bill. This clause was based on the principle of "Conditional Legislation" which has been so far accepted by the decisions of the Privy Council and also of the Federal Court. In a case reported to have been decided by the Federal Court a few weeks back in regard to the Bihar Public Security Act, the Federal Court has held that the said principle of Conditional Legislation has a limited scope. There was a difference of opinion among the Judges of the Federal Court on the point but the majority of the Judges were of opinion that the provision in the Bihar Act empowering the Provincial Government to extend the operation of the Act with necessary modifications was bad. The judgment of the majority of the Judges of the Federal Court has to be accepted ex and will apply to clause 4 in the Separation of Judicial and Executive Functions Bill. The clause is likely to be challenged and to be held illegal. The clause has therefore been deleted from the Bill and the subsequent clause 5 renumbered as clause 4.

3. A revised draft Statement of Objects and Reasons is sent herewith.

Sd/- J.R.Dhurandhar,
20/6.

Additional Secretary to Government.

U.R. to H.D. No. 6823, dated the 20th June 1949.

4-Cs.
M.V.V.
17/7.

No. 6077.
Legal Department,
Bombay Castle (Bombay No.1),14th April 1951.

From

Shri J.R.Dhurandhar,
Secretary to the Government of Bombay,

To,

The Secretary to the Governor of Bombay,

Subject:- The Bombay Separation of Judicial and Executive Functions Bill,1951.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Separation of Judicial and Executive Functions Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 26th and the 29th March xx 1951, respectively.

2. The subject-matter of the Bill mainly falls under entries 1,2,3 and 65 in List II and entries 1,2,12 and 46 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Code of Criminal Procedure, 1898, which is an existing law relating to entry 2 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India.

3. I also forward herewith six copies of each of the

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	:	items Nos. 1, 2 and 3 and two copies of
2. Report of the Select Committee together with the Bill as amended by the Select Committee.	:	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	:	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 14th and 17th February and 9th,17th,24th and 26th March 1951 and of the Bombay Legislative Council dated the 29th March 1951.	:	

Item No. 4 of the papers noted in the margin.

Yours faithfully,

Sd/- J.R.Dhurandhar, / 14.4.

Secretary to Government.

Through:

The Secretary to the Government of Bombay,
Home Department.

4-Cs.

M.V.V.
18/7.

No. G.S. - 1083.

From

Shri L.N.Nadkarni, I.C.S.,
Secretary to the Governor of Bombay,

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay.

Government House,

Bombay April 21, 1951.

Subject:- The Bombay Separation of Judicial and Executive Functions Bill, 1951.

Sir,

With reference to the Bombay Separation of Judicial and Executive Functions Bill, 1951, which was passed by the Bombay Legislative Assembly and the ~~Xxxxx~~ the Bombay Legislative Council on March 26 and March 29, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Code of Criminal Procedure, 1898, which is an existing law relating to entry 2 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution of India. His Excellency the Governor has accordingly been pleased, under Article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L.N.Nadkarni,
Secretary to the Governor of Bombay.

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No. G.S.-1084.
Office of the Secretary to the Governor,
Government House,
Bombay, April 21, 1951.

Copy forwarded with compliments for information to:-

The Secretary to the Government of Bombay, Legal Department, with reference to his letter No1 6977, dated April 14, 1951.

The Secretary to the Government of Bombay, Home Department, with reference to his endorsement No.806/5-B, dated April 18, 1951.

Sd/-

Secretary to the Governor of Bombay.

No. 8487,
Legal Department,
Bombay Castle(Bombay Nol), 30th May 1951.

From

Shri J.R.Dhurandhar, LL.B.,
Secretary to the Government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay,
Government House, Bombay.

Subject:-Bombay Separation of Judicial and Executive Functions Bill, 1951.

Sir,

With reference to your letter No. G.S.-1362, dated the 22nd May 1951, on the above subject, I am directed to state that the Government of India have unnecessarily taken a strict view of the matter. What has really happened in this case is this. The Bombay Separation of Judicial and Executive Functions Bill was published in the Bombay Government Gazette on the 20th January 1951 as L.A. Bill No.III of 1951. It was read for the first time in the Bombay Legislative Assembly and referred to the Select Committee on the 17th February 1951. On 19th February 1951 was published the Central Act, namely, the Code of Criminal Procedure (Amendment) Act, 1951. Section 21 of the Central Act has substituted new sections 503 to 508-A for existing sections 503-508-A. In making this substitution some provisions have been re-arranged and section 506, as it stood before the amendment, has become sub-section (2) of section 503. As the amendments made by the Separation of Judicial and Executive Functions Bill in section 506 have not been in any way affected by the Central Act, a reference to section 506 in the Bombay Bill will be read as a reference to sub-section (2) of section 503. However, to make the position clear it would be desirable to amend the Bombay Separation of Judicial and Executive Functions Act, 1951, by substituting in entry 67 of the Schedule thereto section 503 for section 506.

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But for this unimportant minor change it would be most inappropriate to have recourse to article 201 of the Constitution. That article, as already stated in this Department letter No. 6972 dated the 2nd May 1951., is intended mostly for cases in which some question of principle is involved. The present amendment can be carried out by a small amending Bill in the next session of the Legislature, or when the next repealing and amending Bill is prepared and introduced in the State Legislature.

Yours faithfully,

Sd/- J.R.Dhurandhar,
30/5.

Secretary to Government.

Copy forwarded to the Home Department.

4-Cs.
M.V.V.
18/7.

No. G.S.-1650,

From,

Shri L.H.Wadkarni, I.C.S.,
Secretary to the Governor of Bombay,

To

The Secretary to the Government of Bombay,
Legal Department.

Government House,

Ganeshkhind July 2, 1951.
Poona 7.

Subject:- Bombay Separation of Judicial and Executive Functions Bill, 1951.

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Sir,

With reference to the correspondence resting with your letter No. 8487, dated May 30, 1951, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Separation of Judicial and Executive Functions Bill, 1951, on June 28, 1951.

Yours faithfully,

Sd/-

Dy. Secretary to the Governor of Bombay.

4-Cs.
M.V.Y.
18/7.

Acts.

Publication of the
Bombay Separation of Judicial and
Executive Functions Act, 1951.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 10700,
Bombay Castle, 5th July 1951.

Letter to the Secretary to the Governor, No. 6077, dated the 14th April 1951.

Letter from the Secretary to the Governor, No. G.S. 1650, dated the 2nd July 1951.

"With reference to the correspondence resting with your letter No. 8467, dated ~~th~~ May 30, 1951, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Separation of Judicial and Executive Functions Bill, 1951, on June 28, 1951.

RESOLUTION:* The law should be published as Bombay Act No. XXIII of 1951, in the Bombay Government Gazette dated the 5th July 1951.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Sd/- S.L.Chaudhari,

Deputy Secretary to Government.

To,

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Home Department),
The Home Department,
The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat Bombay.
} with a copy of the Act.

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* With four extra copies of the Act.

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No. G.S.- 1675.

From

The Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department,

Government House,

Ganeshkhind, July, 5th , 1951.

Subject:- The Bombay Separation of Judicial and Executive Functions Bill,1951.

Sir,

In continuation of my letter No. G.S.- 1650, dated July 2, 1951, on the above subject, I am directed to forward herewith for information and necessary action on paragraph 2 thereof a copy of a letter from the Deputy Secretary to the Government of India, Ministry of Home Affairs, No. 17/72/51-Judicial, dated June 30, 1951, and the authentic copy of the Bombay Separation of Judicial and Executive Functions Bill, 1951, received therewith.

Yours faithfully,

Sd/-

For Secretary to the Governor of Bombay.

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M.V.V.
18/7.

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Copy of a letter from the Deputy Secretary to the Government of India, Ministry of Home Affairs, No. 17/72/51- Judicial, dated June 30, 1951, to the Secretary to the Governor of Bombay :-

Subject:- The Bombay Separation of Judicial and Executive Functions Bill, 1951.

I am directed to refer to your letter No. G.S.- 1082, dated the 21st April, 1951, on the subject noted above, and to say that the President has, under the provisions of Article 201 of the Constitution of India, assented to the Bill. The authentic copy of the Bill with the President's assent signified thereon is returned herewith.

2. I am to add, however, that necessary steps should be taken at an early date to rectify the defect pointed out in this Ministry's letter No. 17/72/51-Judicial, dated the 19th May, 1951, by means of a repealing and amending legislation.

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4-Cs.

M.V.V.
18/7.

10

L. A. BILL No. III OF 1951.

A Bill to provide for the separation of judicial and executive functions in the State of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 26th March 1951.)

(As read for the third time and passed by the Legislative Council on the 29th March 1951.)

WHEREAS it is expedient to provide for the separation of the performance of judicial and executive functions by officers in the State of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Separation of Judicial and Executive Functions Act, 1951.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

Amendments to enactments.

2. The Central Acts specified in Parts I and II of the Schedule appended to this Act (hereinafter called the Schedule) in their application to the State of Bombay and the Bombay Acts specified in Part III of the Schedule are hereby amended to the extent mentioned in the fourth column of the Schedule.

Amendments not to render invalid notifications, orders, etc., issued before commencement of Act.

3. The provisions of this Act which amend any Act specified in the Schedule so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, by-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act ; and any such notification, order, commitment, attachment, by-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such a case.

Saving.

4. Nothing in this Act shall be deemed to affect—

(*a*) the validity, invalidity, effect or consequence of anything done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area ;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred before such date ;

(*c*) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date ;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment ;

(*e*) any legal proceeding pending in any Court or before any officer on the aforesaid date or anything done or suffered to be done in the course of such proceeding ; and any such proceeding or any appeal or revisional proceedings arising out of such proceeding shall be instituted, continued or disposed of, as the case may be, as if this Act had not come into force.

SCHEDULE.

(*See* section 2.)

PART I.—The Code of Criminal Procedure, 1898.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898.	1. For section 6, the following shall be substituted, namely :— "6. Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in the State of Bombay, namely :— (Classes of Criminal Courts.) I.—Courts of Session. II.—Courts of Magistrates.'

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	2. After section 6, the following shall be inserted, namely :— "*A-1. Classes of Magistrates.* 6-A. There shall be the following classes of Magistrates, namely :— Classes of Magistrates. *I. Judicial Magistrates.* (1) Presidency Magistrates. (2) Magistrates of the first class. (3) Magistrates of the second class. (4) Magistrates of the third class. (5) Special Judicial Magistrates. *II. Executive Magistrates.* (1) District Magistrates. (2) Sub-Divisional Magistrates. (3) Taluka Magistrates. (4) Presidency Magistrates specially empowered by the State Government. (5) Special Executive Magistrates." 3. For section 7, the following shall be substituted, namely :— "7. (*1*) The State of Bombay shall consist of Sessions divisions; and every sessions division shall for the purposes of this Code, be a district or consist of districts. Sessions divisions and Districts. (*2*) For the purposes of this Code, Greater Bombay shall be a sessions division and be deemed to be a district. (*3*) The State Government may alter the limits or the number of such divisions and districts. (*4*) The sessions divisions and districts existing when the Bombay Separation of Judicial and Executive Functions Act, 1951, comes into force shall be sessions divisions and districts respectively, unless and until they are so altered." Bom. of 1951.

Year	No.	Short title	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	4. In section 8, in sub-section (*1*), for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted.
			5. In section 9,— (*i*) in sub-section (*1*), after the words "sessions division, and" the words "in consultation with the High Court" shall be inserted ; (*ii*) in sub-section (*3*), after the words "may also" the words "in consultation with the High Court" shall be inserted ; (*iii*) in sub-section (*4*), after the words "sessions division may" the words "in consultation with the High Court" shall be inserted.
			6. In section 10,— (*i*) in sub-section (*1*),— (*a*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted ; (*b*) the words "Magistrate of the first class, who shall be called the" shall be deleted ; (*ii*) in sub-section (*2*), the words "any Magistrate of the first class to be" shall be deleted ; (*iii*) sub-section (*3*) shall be deleted.
			7. In section 12,— (*i*) in sub-section (*1*),— (*a*) the words "besides the District Magistrate" shall be deleted ; (*b*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted ; (*c*) the words "the State Government or the District Magistrate, subject to the control of the State Government" shall be deleted ;

Year	No.	Short title	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely :— "(*1-A*) The power of appointment of Magistrates under sub-section (*1*) shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification." ; (*iii*) for the marginal notes to the said section, the following shall be substituted, namely :— "Judicial Magistrates." 8. In section 13,— (*i*) in sub-section (*1*), the words "of the first or second class" shall be deleted and after the words "sub-division" the words "or a taluka" shall be inserted ; (*ii*) in sub-section (*2*), after the words "Sub-divisional Magistrates" the words "or Taluka Magistrates, as the case may be" shall be added ; (*iii*) in the marginal note to the said section, the words "or taluka" shall be added. 9. For section 14, the following shall be substituted, namely :— "14. (*1*) The State Government may, in consultation with the High Court, confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local areas. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may in consultation with the High Court by general or special order direct. Special Magistrates. (*2*) The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may by general or special order direct : Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assistant Superintendent and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force. (*3*) The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (*2*). " 10. In section 15, in sub-section (*1*), for the words " The State Government may direct any two or more Magistrates in any place outside the presidency-towns " the words " The State Government may, in consultation with the High Court, direct any two or more Judicial Magistrates in any place outside Greater Bombay " shall be substituted. 11. In section 16, for the words " The State Government may, or, subject to the control of the State Government, the District Magistrate " the words " The High Court, subject to the sanction of the State Government " shall be substituted. 12. In section 17,— (*i*) in sub-section (*1*),— (*a*) for the words " All Magistrates " the words " All Judicial Magistrates " shall be substituted; (*b*) the figures ",13 " shall be deleted ; (*c*) for the words " District Magistrate " the words " Sessions Judge " shall be substituted ; (*d*) the words " and " at the end shall be deleted ; (*ii*) sub-section (*2*) and sub-section (*5*) shall be deleted ;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*iii*) in the marginal note to the said section, for the word "Magistrates" the words "Judicial Magistrates" and for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

13. After section 17, the following new sections shall be inserted, namely :—

"17A. All Executive Magistrates appointed under sections 13 and 14 shall be subordinate to the District Magistrate.

Subordination of Executive Magistrates to District Magistrate.

17B. Courts of Session and Courts of Magistrates (including Courts of Presidency Magistrates) shall be Criminal Courts inferior to the High Court and Courts of Magistrates outside Greater Bombay shall be Criminal Courts inferior to the Court of Session."

Inferior Criminal Courts.

14. In section 18, after sub-section (*4*) the following sub-section shall be added, namely :—

"(*5*) The power of appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of appointment of other Presidency Magistrates shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification."

15. In section 29B,—

(*i*) the words "a District Magistrate or" shall be deleted ;

(*ii*) for the words "by any Magistrate specially empowered by the State Government" the words "by any Judicial Magistrate specially empowered by the State Government in consultation with the High Court" shall be substituted.

16. In section 36, for the words "District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	17. For section 37, the following shall be substituted, namely :— "37. In addition to his ordinary powers, the State Government may invest any Magistrate with the powers as specified in the fourth Schedule : Additional powers conferrable on Magistrates. Provided that in the case of Judicial Magistrates such powers shall be conferred in consultation with the High Court : Provided further that the State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the fourth Schedule." 18. In section 38, for the words "conferred on" the words "delegated to" shall be substituted. 19. After section 38, the following section shall be inserted, namely :— "38A. Whenever under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution any judicial powers are to be conferred on a Sessions Judge, an Additional or Assistant Sessions Judge or a Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may not expressly provide for such consultation. Powers on Judicial Magistrates to be conferred in consultation with the High Court. *Explanation.*—For the purposes of this section, the question whether any powers are judicial shall be decided by the State Government in consultation with the High Court and such decision shall be final.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	20. In section 41, to sub-section (*1*) the following proviso shall be added, namely :— "Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court."
			21. In section 57, in sub-section (*2*), for the words "before a Magistrate if so required" the words "before a Magistrate having jurisdiction if so required" shall be substituted.
			22. In section 63, for the words "special order of a Magistrate" the words "special order of a Magistrate having jurisdiction" shall be substituted.
			23. In section 78, in sub-section (*1*), after the words "or Sub-divisional Magistrate" the words "or Magistrate of the first class" shall be inserted.
			24. In section 88, in sub-section (*6C*), the words beginning with the words "of the first" and ending with the words "may be" shall be deleted.
			25. In section 94, in sub-section (*1*) for the words "beyond the limits of the towns of Calcutta and Bombay" the words "beyond the limits of Greater Bombay" shall be substituted.
			26. In section 106, in sub-section (*1*), the words "a District Magistrate, a Sub-divisional Magistrate" shall be deleted.
			27. In section 107, in sub-section (*1*), for the words "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" the following shall be substituted, namely :— "Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or Sub-divisional Magistrate or a Taluka Magistrate specially empowered by the State Government in this behalf"

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	28. In section 108, for the words "or a Presidency Magistrate, or Magistrate of the first class" the words "or Sub-divisional Magistrate or a Presidency Magistrate" shall be substituted.
			29. In section 109, for the words "Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			30. In section 110, for the words "Presidency Magistrate, District Magistrate, or Sub-Divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the State Government" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			31. In section 126,— (*i*) In sub-section (*1*), for the words beginning with the words "to a Presidency Magistrate" and ending with the words "first class" the words "to the Court by which an order was made to give security" shall be substituted; (*ii*) for sub-section (*2*), the following shall be substituted, namely:— "(2) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it."
			32. In section 133, in sub-section (*1*),— (*i*) for the words "District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate" shall be substituted; (*ii*) in the last paragraph for the words "to appear before himself or some other Magistrate of the first or second class" the words "to appear before himself or some other Executive Magistrate" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	33. In section 143, for the words "A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf" the words "A Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate or any Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf" shall be substituted. 34. In section 144, in sub-section (*1*), for the words and brackets "or of any other Magistrate (not being a Magistrate of the third class)" the words "or of any other Executive Magistrate" shall be substituted. 35. In section 145, in sub-section (*1*), for the words "or Magistrate of the first class" the words "or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted. 36. In section 147, in sub-section (*1*), for the words "or Magistrate of the first class" the words "or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted. 37. In section 164, in sub-section (*1*), for the words "Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government" the words "Any Presidency Magistrate, any District Magistrate, any Sub-divisional Magistrate, any Magistrate of the first class or any other Magistrate specially empowered by the State Government in this behalf" shall be substituted. 38. In section 167,— (*i*) in sub-section (*1*), for the words "the nearest Magistrate" the words "the nearest Judicial Magistrate" shall be substituted;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*ii*) for sub-section (*4*), the following shall be substituted, namely :— "(*4*) Any Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge."

39. In section 170, sub-section (*3*) shall be deleted.

40. In section 174, in sub-section (*5*), for the words "or Magistrate of the first class and any Magistrate" the words "or any Executive Magistrate" shall be substituted.

41. In section 186, in sub-section (*1*), for the words "a District Magistrate, a Sub-divisional Magistrate, or if he is specially empowered in this behalf by the State Government, a Magistrate of the first class" the words "or a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted.

42. In section 187, in sub-section (*1*), for the words "by a Magistrate other than a Presidency Magistrate or a District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate" the words "the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge" shall be substituted.

43. In section 190,—

(*i*) in sub-section (*1*),

(*a*) the words "District Magistrate or Sub-divisional Magistrate" shall be deleted;

(*b*) for the words "any other" the words "any Judicial" shall be substituted;

(*c*) after the words "in this behalf" the words "by the State Government in consultation with the High Court" shall be inserted;

(*ii*) in sub-section (*2*), the words ", or the District Magistrate subject to the general or special orders of the State Government," shall be deleted;

(*iii*) in sub-section (*3*), after the words "the State Government may" the words "in consultation with the High Court" shall be inserted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	44. In section 192,— (*i*) in sub-section (*1*), the words ", District Magistrate or Sub-divisional Magistrate" shall be deleted; (*ii*) in sub-section (*2*),— (*a*) for the words "any District Magistrate" the words "A Sessions Judge" shall be substituted; (*b*) for the words "in his district" the words "in the sessions division" shall be substituted. 45. In section 193, in sub-section (*2*), after the words "the State Government" the words "in consultation with the High Court" shall be inserted. 46. In section 206, in sub-section (*1*),— (*i*) the words "District Magistrate, Sub-divisional Magistrate" shall be deleted; (*ii*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 47. In section 249, for the words "or with the previous sanction of the District Magistrate, any other Magistrate" the words "or any other Judicial Magistrate specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted. 48. In section 260, in sub-section (*1*),— (*i*) the clause "(*a*) the District Magistrate," shall be deleted; (*ii*) in clauses (*b*) and (*c*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 49. In section 261, after the words "The State Government may" the words "in consultation with the High Court" shall be inserted. 50. In section 265, in sub-section (*2*), after the words "The State Government may" the words "in consultation with the High Court" shall be inserted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	51. In section 269, in sub-section (*1*), after the words "The State Government may" the words "in consultation with the High Court" shall be inserted.
			52. In section 337, in the proviso to sub-section (*1*), the words "other than the District Magistrate" shall be deleted, and for the words "sanction of the District Magistrate" the words "sanction of the Sessions Judge" shall be substituted.
			53. In section 346, in sub-section (*1*),— (*i*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted; (*ii*) after the words "District Magistrate" the words "or Sessions Judge, as the case may be," shall be inserted.
			54. In section 349,— (*i*) in sub-section (*1*), for the words "to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate" the words "to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted; (*ii*) in sub-section (*1A*), for the words "the District Magistrate or Sub-divisional Magistrate" the words, brackets and figures "the Magistrate empowered under sub-section (*1*)" shall be substituted.
			55. In section 350, in proviso (*b*) to sub-section (*1*), for the words "subordinate to the District Magistrate, the District Magistrate" the words ", the Court of Session" shall be substituted; and the words "or District Magistrate" shall be deleted.
			56. In section 380, the words "or a Sub-divisional Magistrate" shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	57. In section 407,— (*i*) in sub-section (*1*),— (*a*) the word "sub-divisional" shall be deleted; (*b*) for the words "District Magistrate" the words "Court of Session" shall be substituted; (*ii*) in sub-section (*2*),— (*a*) for the words "District Magistrate", wherever they occur, the words "Sessions Judge" shall be substituted; (*b*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 58. In section 408, for the words, "a District Magistrate or other" the words "or a" shall be substituted. 59. In section 413, for the words "District Magistrate or other" the letter "a" shall be substituted. 60. In section 428, in sub-section (*1*), for the words "by a Magistrate" the words "by a Judicial Magistrate" shall be substituted. 61. In section 435,— (*i*) in sub-section (*1*), the words "or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf," and the Explanation to the said sub-section shall be deleted; (*ii*) for sub-sections (*2*) and (*4*), the following shall be substituted, namely :— "(*2*) The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement that he be released on bail on his own bond pending the examination of the record.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*3*) If any Sub-divisional Magistrate acting under sub-section (*2*) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate. (*4*) The High Court may call for and examine the record of any proceeding under section 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate."

62. In section 436,—

(*i*) the said section shall be renumbered as sub-section (*1*) of that section;

(*ii*) in sub-section (*1*) so renumbered for the words "the District Magistrate by himself or by any of the Magistrates subordinate to him, to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make" the words "the Judicial Magistrate to make," shall be substituted;

(*iii*) the following new sub-section shall be added, namely:—

"(*2*) On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceedings:

Provided that no District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made."

63. In section 437, the words "or District Magistrate" and the words "or Magistrate", wherever they occur, shall be deleted.

64. In section 438, the words "or District Magistrate" shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	65. In section 479, the words ", District Magistrate" shall be deleted.
			66. In section 488, in sub-section (*1*), the words ", the District Magistrate," and the words ", a Sub-divisional Magistrate" shall be deleted.
			67. In section 506—
			(*i*) for the words "such Magistrate, shall apply to the District Magistrate" the following shall be substituted, namely :—
			"such Magistrate, if he is a Judicial Magistrate shall apply to the Sessions Judge and if he is an Executive Magistrate shall apply to the District Magistrate, ";
			(*ii*) for the words "and the District Magistrate" the words "and the Sessions Judge or the District Magistrate, as the case may be," shall be substituted.
			68. For section 515, the following shall be substituted, namely :—
			"515. All orders passed under section 514 by an Executive Magistrate other than the District Magistrate shall be appealable to the District Magistrate and by a Judicial Magistrate other than a Presidency Magistrate to the Sessions Judge and if no appeal is made against such orders they may be revised in the case of the orders passed by an Executive Magistrate by the District Magistrate and in the case of the orders passed by a Judicial Magistrate by the Sessions Judge."
			Appeal from, and revision of, orders under section 514.
			69. In section 524, in sub-section (*1*), for the words "of a Magistrate of the first class" the words "of an Executive Magistrate" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	70. In section 528, in sub-section (*2*)— (*i*) for the words "District Magistrate or Sub-Divisional Magistrate" the words "or Sessions Judge" shall be substituted; (*ii*) in the marginal note to the said sub-section, for the words "District or Sub-divisional Magistrate" the words "Chief Presidency Magistrate or Sessions Judge" shall be substituted. 71. In section 559, in sub-section (*2*), for the words "the District Magistrate outside such towns," the words "outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates," shall be substituted. 72. In section 561, for the words "District Magistrate", wherever they occur, the words "a Magistrate of the first class" shall be substituted. 73. In section 562, in the proviso to sub-section (*1*), the words "or Sub-divisional Magistrate" shall be deleted. 74. In section 565, in sub-section (*1*), the words "District Magistrate, Sub-divisional Magistrate" shall be deleted. 75. In Schedule II, in column 8,— (*i*) for the words "Any Magistrate", wherever they occur, the words "Any Judicial Magistrate" shall be substituted; (*ii*) in the entry relating to section 124-A, the words "or District Magistrate" shall be deleted and after the words "in that behalf" the words "in consultation with the High Court" shall be inserted; (*iii*) in the entry relating to section 376, for the words "District Magistrate" the words "Magistrate of the first class" shall be substituted. 76. In Schedule III,— (*a*) In Part I, in item (17), for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*b*) In Part III,— (*i*) after item (1) the following shall be inserted, namely :— (1a) Power to direct warrants to landholders, section 78 ; (*ii*) items (4), (5), (6), (6*a*), (7) and (7*b*) shall be deleted. (*c*) after Part III the following shall be inserted, namely :— "*III-A—Ordinary powers of a Taluka Magistrate.* (1) Power to arrest or direct the arrest of, and to commit to custody a person committing an offence in his presence, section 64. (2) Power to arrest, or direct the arrest, in his presence of an offender, section 65. (3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 85. (4) Power to require search to be made for letters and telegrams, section 95. (5) Power to issue search warrant, section 96. (6) Power to endorse a search warrant and order delivery of things found, section 99. (7) Power to command unlawful assembly to disperse, section 127. (8) Power to use civil force to disperse unlawful assembly, section 128. (9) Power to require military force to be used to disperse unlawful assembly, section 130. (10) Power to apply to District Magistrate to issue commission for examination of witness, section 506. (11) Power to recover penalty on forfeited bond, section 514 and to require fresh security, section 514-A. (12) Power to make order as to disposal of property, section 517. (13) Power to sell property of a suspected character, section 525."

Year.	No.	Short title	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*d*) In Part IV,—

(*i*) for item (1), the following shall be substituted, namely :—

"(1) The ordinary powers of a Taluka Magistrate;"

(*ii*) after item (2), the following shall be inserted, namely :

"(2*a*) Power to issue search warrant otherwise than in course of an inquiry, section 98.

(2*b*) Power to issue search warrant for discovery of persons wrongfully confined, section 100.

(2*c*) Power to require security to keep the peace, section 107.

(2*d*) Power to require security for good behaviour, section 109.";

(*iii*) after item (3), the following shall be inserted, namely :—

"(4) Power to discharge sureties, section 126A.

(4*a*) Power to make orders as to local nuisances, section 133.";

(*iv*) after item (6), the following shall be inserted, namely :—

"(6*a*) Power to make orders etc. in possession cases, sections 145, 146 and 147.";

(*v*) after item (8), the following shall be inserted, namely :—

"(8*a*) Power to record statements and confessions during a police investigation, section 164.";

(*vi*) after item (9), the following shall be inserted, namely :—

"(10) Power to hold inquests, section 174.";

(*vii*) items (12) to (16) (both inclusive) shall be deleted;

(*viii*) item (19) shall be deleted;

(*e*) in Part V, items (1*a*), (7), (8), (10), (12), (13) and (14) shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	77. For Schedule IV, the following shall be substituted, namely :—

"SCHEDULE IV.

(*See* section 37.)

Additional powers with which Magistrates may be invested.

PART I.—BY STATE GOVERNMENT.

Powers with which a Magistrate of the First Class may be invested.

1. Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 ;

2. Power to take cognisance of offences upon complaint, section 190 ;

3. Power to take cognisance of offences upon police reports, section 190 ;

4. Power to take cognisance of offences without complaint, section 190 ;

5. Power to transfer cases, section 192 ;

6. Power to try summarily, section 260 ;

7. Power to pass sentence on proceedings recorded by a Magistrate of the Second and Third Class, section 349 ;

8. Power to hear appeals from conviction by Magistrate of the Second and Third Class, section 407 ;

9. Power to try cases under section 124-A of the Indian Penal Code.

Powers with which a Magistrate of the Second Class may be invested.

1. Power to record statements and confessions during a police investigation, section 164 ;

2. Power to authorise detention of a person in the custody of the police during a police investigation, section 167 ;

3. Power to take cognisance of offences upon complaint, section 190 ;

4. Power to take cognisance of offences upon police reports, section 190 ;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	5. Power to take cognisance of offences without complaint, section 190; 6. Power to commit for trial, section 206; 7. Power to stop proceedings instituted otherwise than upon complaint, section 249; 8. Power to make order as to first offenders, section 562. *Powers with which a Magistrate of the Third Class may be invested.* 1. Power to record statement and confessions during a police investigation, section 164; 2. Power to take cognisance of offences upon complaint, section 190; 3. Power to take cognisance of offences upon police report, section 190; 4. Power to stop proceedings instituted otherwise than upon complaint, section 249. PART II.—By State Government. *Powers with which a Sub-divisional Magistrate may be invested.* 1. Power to call for records, section 435. *Powers with which any other Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to make orders, etc., in possession cases, sections 145 and 147; 4. Power to record statements and confessions during a police investigation, section 164; 5. Power to hold inquests, section 174; 6. Power to sell property alleged or suspected to have been stolen, etc., section 524. By District Magistrate. *Powers with which any Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to hold inquests, section 174." ————

PART II—OTHER CENTRAL ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1889	I	The Metal Tokens Act, 1889.	In section 5, in sub-section (*2*), the words "except a District Magistrate or Sub-Divisional Magistrate," shall be deleted.
1894	IX	The Prisons Act, 1894.	In section 52,— (*i*) the words "of the District Magistrate or" shall be deleted; (*ii*) in the first proviso, the words "by the District Magistrate to any Magistrate of the first class and" shall be deleted.
1897	VIII	The Reformatory Schools Act, 1897.	1. In section 8, in sub-section (*2*), for the words "by the State Government in this behalf" the words "by the State Government in this behalf in consultation with the High Court" shall be substituted. 2. In section 9, in sub-section (*1*), for the words "the District Magistrate to whom he is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (*2*) of section 8" shall be substituted. 3. In section 10, for the words "District Magistrate" the words, brackets and figures "Magistrate specially empowered under sub-section (*2*) of section 8" shall be substituted. 4. In section 11, in sub-section (*2*), for the words "District Magistrate" the words "Magistrate specially empowered" shall be substituted. 5. In section 31,— (*i*) in sub-section (*4*) for the words "the District Magistrate to whom such Court is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (*2*) of section 8" shall be substituted; (*ii*) in sub-section (*5*), the word "District" shall be deleted.
1900	III	The Prisoners Act, 1900.	In section 37, for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1911	X	The Prevention of Seditious Meetings Act, 1911.	In section 8, the words "or Sub-divisional Magistrate" shall be deleted.
1917	I	The Inland Steam-vessels Act, 1917.	1. In section 33, in clause (*b*) of sub-section (*1*), the words "or the Court of any District Magistrate" shall be deleted. 2. In section 35, in sub-section (*1*), the words "or the Court of the District Magistrate," shall be deleted. 3. In section 38, in clause (*b*), the words "or the Court of the District Magistrate", shall be deleted and, for the words "respectively by either Court", the words "by it" shall be substituted.
1923	IX	The Indian Official Secrets Act, 1923.	In section 13, in sub-section (*1*), after the words "Government" the words "or that of a Presidency Magistrate" shall be inserted and the words "which is inferior to that of a District or Presidency Magistrate" shall be deleted.
1927	XVI	The Indian Forest Act, 1927.	In section 67, after the words "The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the State Government" the words "any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court," shall be substituted.

PART III—Bombay Acts.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VII	The Bombay District Police Act, 1867.	In section 34, for the words "a Magistrate of the first class" the words "the District Magistrate or any magistrate specially empowered in this behalf by the State Government" shall be substituted

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VIII	The Bombay Village Police Act, 1867.	1. In section 1, the following paragraph shall be added, namely :— "The term 'Executive Magistrate' when used in this Act has the meaning assigned to it in the Code of Criminal Procedure, 1898." V of 1898. 2. In section 6, for the words "the Magistrate", where they occur for the second time, the words ",any other executive Magistrate" shall be substituted. 3. In section 8, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted. 4. In sections 9 and 9A, for the words "any Magistrate of the first class" and "Any Magistrate of the first class" the words 'the Magistrate of the District" and "The Magistrate of the District" shall, respectively, be substituted. 5. In sections 19 and 21, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted.
1889	I	The Bombay Village Sanitation Act, 1889.	In section 15, in sub-section (*1*), for the words beginning with the words "or other" and ending with the words "in this behalf" the words "or any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted.
1929	XVIII	The Bombay Borstal Schools Act, 1929.	1. In section 8, the words "a District Magistrate, a sub-divisional Magistrate" shall be deleted. 2. In section 9, for the words "District Magistrate", wherever they occur, the words "Magistrate of the first class" shall be substituted.
1933	VI	The Bombay Village Panchayats Act, 1933.	1. In section 77,— (*i*) in sub-section (*1*), for the words "District Magistrate" the words "Sessions Court" shall be substituted; (*ii*) in sub-section (*2*),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted; (*b*) the words "or Magistrate" shall be deleted;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1933	VI	The Bombay Village Panchayats Act, 1933 —*contd.*	(*iii*) in sub-section (*3*),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted; (*b*) the words "or Magistrate" shall be deleted; (*iv*) in the marginal note to the said section, for the words "District Magistrate" the words "Sessions Court" shall be substituted. 2. In sections 78, 79, 87, 87A and 87B and in the marginal notes to sections 87, 87A and 87B, for the words "District Magistrate", wherever they occur, the words "Sessions Court" shall be substituted.
1938	XIX	The Bombay Probation of Offenders Act, 1938.	In section 3, in sub-section (*1*), clauses (*c*) and (*d*) shall be deleted.
1947	LI	The Bombay Habitual Offenders Restriction Act, 1947.	In section 13,— (*i*) in clause (*i*), for the words "by a Magistrate" the words "by an Executive Magistrate" shall be substituted; (*ii*) in clause (*ii*), after the words "made by" the words "a Judicial Magistrate or" shall be inserted.
1948	LXXI	The Bombay Children-Act, 1948.	1. In section 8, clauses (*c*) and (*d*) shall be deleted. 2. In section 41, for the words "District Magistrate or Sub-Divisional Magistrate" the words "Sessions Judge" shall be substituted. 3. In section 80,— (*i*) for the words beginning with the words "the court shall submit" and ending with the words "it is subordinate" the words and figure "the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate" shall be substituted; (*ii*) in the marginal note to the said section, for the words "District Magistrate" the words "First Class Magistrate" shall be substituted. 4. In section 94, in sub-section (*2*), clause (*a*), for the words "District Magistrate" the words "Court of Session" shall be substituted.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. III OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 26th March 1951.)

(As read for the third time and passed by the Legislative Council on the 29th March 1951.)

A Bill to provide for the separation of judicial and executive functions in the State of Bombay.

[Shri MORARJI DESAI, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Note.—*Additions and substitutions are shown by italics and deletions are shown in asterisks.*

L. A. BILL No. III OF 1951.

(A Bill to provide for the separation of judicial and executive functions in the State of Bombay.)

Provisions of the Code of Criminal Procedure, 1898 (except the Schedules) as they exist at present and the provisions as they would read after they are amended.

	Existing section.	Section as it will read after amendment.
Classes of Criminal Courts.	6. Besides the High Courts and the Courts constituted under any law other than this Code, for the time being in force, there shall be five classes of Criminal Courts in the States, namely :— I.—Courts of Session ; II.—Presidency Magistrates ; III.—Magistrates of the first class ; IV.—Magistrates of the second class ; V.—Magistrates of the third class.	6. Besides the High Courts and the Courts constituted under any law other than this Code, for the time being in force, there shall be *two* classes of Criminal Courts in the States, namely :— I.—Courts of Session ; II.—*Courts of Magistrates.*

Existing section.	Section as it will read after amendment.
	A-1.—*Classes of Magistrates.*
	6A. *There shall be the following classes of Magistrates, namely :—* *Classes of Magistrates.*
	I. Judicial Magistrates.
	(*1*) *Presidency Magistrates* (*including the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate.*
	(*2*) *Magistrates of the first class.*
	(*3*) *Magistra es of the second class.*
	(*4*) *Magistrates of the third class.*
	(*5*) *Special Judicial Magistrates.*
	II. Executive Magistrates.
	(*1*) *District Magistrates* (*including Additional District Magistrates*).
	(*2*) *Sub-divisional Magistrates.*
	(*3*) *Taluka Magistrates.*
	(*4*) *Presidency Magistrates specially empowered by the State Government.*
	(*5*) *Special Executive Magistrates.*
ıe State Government shall esta- Court of Session for every sess- vision, and appoint a judge of such court.	9. (1) The State Government shall establish a Court of Session for every sessions division, and *in consultation with the High Court* appoint a judge of such court.
(2) The State Government may by general or special order in the Official Gazette direct at what place or places the Court of Session shall hold its sitting ; but, until such order is made the Courts of Session shall hold their sittings, as heretofore.	(2) No change.
(3) The State Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.	(3) The State Government may also *in consultation with the High Court* appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction, in one or more such Courts.
(4) A Sessions Judge of one sessions division may be appointed by the State Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the State Government may direct.	(4) A Sessions Judge of one sessions division may *in consultation with the High Court* be appointed by the State Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the State Government may direct.

Existing section.	Section as it will read after amendment.
District Magistrate. 10. (1) In every district outside the presidency-towns the State Government shall appoint a Magistrate of the first class who shall be called the District Magistrate.	10. (1) In every district outside the presidency-towns the State Government shal appoint a *** District Ma istrate.
(2) The Sta e Government may appoint any Magistrate of the first class to be an Additional District Magistrate and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force as the State Government may direct.	(2) The State Government may appoint *** an Additional District Magistrate and such Additional District Magistrate shall have a'l or any of the powers of a Distric Magistrate under this Code or under any other law for the time being in force as the State Government may direct.
(3) For the purposes of section 192, sub-section (*1*), section 407, sub-section (*2*) and section 528, sub-sections (*2*) and (*3*), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.	This sub-section is deleted.
Subordinate Magistrates. 12. (1) The State Government may appoint as many persons as it thinks fit besides the District Magistrate to be Magistrates of the first, second, or third class in any district outside the presidency-towns; and the State Government or the District Magistrate subject to the control of the State Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.	12. (1) The State Government may appoint as many persons as it thinks fit *** to be Magistrates of the first, second, or third class in any District outside the presidency-towns; and*** may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.
... ...	*(1-A) The power of appointment of Magistrates under sub-section (1) shall, on the issue of a public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification.*
Power to put Magistrate in charge of sub-division. 13. (1) The State Government may place any Magistrate of the first or second class in charge of a sub-division and relieve him of the charge as occasion requires.	13. (1) The State Government may place any Magistrate * *in charge of a sub-division or a taluka and relieve him of the charge as occasion requires. Power to put Magistrate in charge of sub-division or taluka.
(2) Such Magistrates shall be called Sub-divisional Magistrates.	(2) Such Magistrates shall be called Sub-divisional Magistrates *or Taluka Magistrates, as the case may be.*
Special Magistrates. 14. (1) The State Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magis-	14. (1) *The State Government may, in consultation with the High Court,* Special Magistrates. *confer upon any person all or any of the powers conferred or conferrable by*

Existing section.	Section as it will read after amendment.
trate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area outside the presidency-towns.	*or under this Code on a Judicial Magistrate in respect to particular cases or a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may in consultation with the High Court by general or special order direct.*
(2) Such Magistrates shall be called Special Magistrates and shall be appointed for such term as the State Government may, by general or special order, direct.	(2) *The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may by general or special order direct:* *Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assistant District Superintendent and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.*
(3) The State Government may delegate with such limitations as it thinks fit, to any officer under its control the power conferred by sub-section (*1*).	(3) *The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section* (2).
(4) No powers shall be conferred under this section on any police officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate and for the performance by the officer	

Existing section.	Section as it will read after amendment.
of any other duties imposed upon him by any law for the time being in force.	
Benches of Magistrates. 15. (1) The State Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a bench and may by order invest such bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases or such classes of cases only, and within such local limits as the State Government thinks fit.	15. (1) The State Government may, *in consultation with the High Court,* direct any two or more Magistrates in any place outside the presidency-towns to sit together as a bench and may by order invest such bench with any of the powers confe red or conferrable by or under this Code on a Magistrate of the first, second or third class, and di ect it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the State Government thinks fit.
Power to frame rules for guidance of Benches. 16. The State Government may, or, subject to the control of the State Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :— (*a*) the classes of cases to be tried ; (*b*) the times and places of sitting ; (*c*) the constitution of the Bench for conducting trials ; (*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.	16. *The High Court, subject to the sanction of the State Government* may from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :— (*a*) the classes of cases to be tried ; (*b*) the times and places of sitting ; (*c*) the constitution of the Bench for conducting trials ; (*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.
Subordination of Magistrates and Benches to District Magistrate. 17. (1) All Magistrates appointed under sections 12, 13 and 14 and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and	17. (1) *All Judicial Magistrates* appointed under sections 12* and 14 and all Benches constituted under section 15, shall be subordinate to the *Sessions Judge*, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches.* Subordination of *Judicial Magistrates* and Benches to *Sessions Judge.*
to Sub-divisional Magistrate. (2) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.	(2) This sub-section is deleted.
(3) and (4)	No change.
(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent	(5) This sub-section is deleted.

Existing section.	Section as it will read after amendment.
and in the manner hereinafter expressly provided.	
	17A. All Executive Magistrates appointed under sections, 13 and 14 shall be subordinate to the District Magistrate. Subordination of Executive Magistrates to District Magistrate.
	17B. Courts of Session and Courts of Magistrates shall be criminal courts inferior to the High Court and the Courts of Magistrates shall be criminal Courts inferior to a Court of Session. Inferior Criminal Courts.
Appointment of Presidency Magistrates.	*18. (5) The power of appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of appointment of other Presidency Magistrates shall on the issue of a public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification.*
Jurisdiction in the case of juveniles. 29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the State Government to exercise the powers conferred by section 8, sub-section (*1*), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.	29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by * * * a Chief Presidency Magistrate, or by any Magistrate specially empowered by the State Government to exercise the powers conferred by section 8, sub-section (*1*), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.
VIII of 1897.	VIII of 1897.
Higher powers of certain District Magistrates. 34.	Higher powers of certain Magistrates.

Existing section.	Section as it will read after amendment.
Ordinary powers of Magistrates. 36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."	36. All *Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates*, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."
Additional powers conferrable on Magistrates. 37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the State Government or the District Magistrate, as the case may be, with any powers specified in the fourth Schedule as powers with which he may be invested by the State Government or the District Magistrate.	37. *In addition to his ordinary powers, the State Government may invest any Magistrate with any powers specified in the fourth Schedule:* *Additional powers conferrable on Magistrates.* *Provided that in the case of Judicial Magistrates such powers shall be conferred in consultation with the High Court:* *Provided further that the State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the Fourth Schedule.*
Control of District Magistrate's investing power. 38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the State Government.	38. The power *delegated to* the District Magistrate by section 37 shall be exercised subject to the control of the State Government.
	38*A*. *Whenever under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution any judicial powers are to be conferred on a Sessions Judge, an Additional or Assistant Sessions Judge or a Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the order conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may not expressly provide for consultation with the High Court.* *Powers on Judicial Magistrates to be conferred in consultation with High Court.* Sub
	Explanation.—For the purposes of this section, the question whether any powers are judicial shall be

Existing section.	Section as it will read after amendmen .
	decided by the State Government in consultation with the High Court and such decision shall be final.
Powers may be cancelled. 41. (1) The State Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.	41. (1) The State Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it : *Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court.*
Warrant may be directed to landholders, etc. 78. (1) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.	78. (1) A District Magistrate or Sub-divisional Magistrate *or a Magistrate of the first class* may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.
Attachment of property of person absconding. 88. (6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made : Provided that if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.	88. (6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made : Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate * * * subordinate to him.
Security for keeping the peace on conviction. 106. (1) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class, XLV of 1860.	106. (1) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate * * * or a Magistrate of the first class,

Existing section.	Section as it will read after amendment.
and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.	and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.
Security for keeping the peace in other cases. 107. (1) Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.	107. (1) Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate* is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.
Security for good behaviour from persons disseminating seditious matter. 108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the State Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in any wise abets the dissemination of,—	108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate * * * specially empowered by the State Government, in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in any wise abets the dissemination of,—
(*a*) any seditious matter, that is to say, any matter, the publication of which is punishable under section 124-A of the Indian Penal Code, or	(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124-A of the Indian Penal Code, or
XLV of 1860.	XLV of 1860.

Existing section.	Section as it will read after amendment.
(*b*) any matter the publication of which is punishable under section 153-A of the Indian Penal Code, or	(*b*) any matter the publication of which is punishable under section 153-A of the Indian Penal Code, or
(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,	(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,
such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.	such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.
No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.	No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.
XXV of 1867.	XXV of 1867.
Security for good behaviour from vagrants and suspected persons. 109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—	109. Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate* receives information—
(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or	(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or
(*b*) that there is within such limits a person who has no ostensible	(*b*) that there is within such limits a person who has no ostensible

Existing section.	Section as it will read after amendment.
means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.	means of subsistence, or who cannot give a satisfactory account, of himself, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.
Security for good behaviour from habitual offenders. 110. Whenever a Presidency Magistrate, District Magistrate, or Subdivisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the State Government receives information that any person within the local limits of his jurisdiction—	110. Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate* receives information that any person within the local limits of his jurisdiction—
(*a*) is by habit a robber, housebreaker, thief, or forger, or	(*a*) is by habit a robber, housebreaker, thief or forger, or
(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or	(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or
(*c*) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or	(*c*) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or
(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489-A, section 489-B, section 489-C or section 489-D of that Code, or	(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code or under section 489-A, section 489-B, section 489-C, or section 489-D of that Code, or
XLV of 1860.	XLV of 1860.
(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or	(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or
(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,	(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

Existing section.	Section as it will read after amendment.
Such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.	Such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years as the Magistrate thinks fit to fix.
Discharge of sureties. 126. (1) Any surety for the peaceful conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.	126. (1) Any surety for the peaceful conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate *or Sub-divisional Magistrate* to cancel any bond executed under this Chapter within the local limits of his jurisdiction.
Conditional order for removal of nuisance. 133. (1) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,	133. (1) Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate* considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,
that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or	that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or
that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or	that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or
that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or	that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or
that any building, tent or structure or any tree is in such a condition that it is likely to fall and thereby cause injury to	that any building, tent or structure or any tree is in such a condition that it is likely to fall and thereby cause injury

Existing section.	Section as it will read after amendment.
persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or	to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or,
that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or,	that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or,
that any dangerous animal should be destroyed, confined or otherwise disposed of	that any dangerous animal should be destroyed, confined or otherwise disposed of,
such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation or owning or possessing such animal or tree, within a time to be fixed in the order,	such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,
to remove such obstruction or nuisance ; or	to remove such obstruction or nuisance ; or
to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or	to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or
to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed ; or	to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or
to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure ; or	to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure ; or
to remove or support such tree ; or	to remove or support such tree ; or
to alter the disposal of such substance ; or	to alter the disposal of such substance ; or
to fence such tank, well or excavation, as the case may be ; or	to fence such tank, well or excavation, as the case may be ; or
to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ;	to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ;
or, if he objects to do,	or, if he objects so to do,
to appear before himself or some other Magistrate of the first or second class,	to appear before himself or some other Magistrate of the first or second class,

Existing section.	Section as it will read after amendment.
at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.	at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.
Magistrate may prohibit repetition or continuance of public nuisance. 143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.	143. *A Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate or any Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf* may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.
XLV of 1860.	XLV of 1860.
Power to issue order absolute at once in urgent cases of nuisance or apprehended danger. 144. (1) In cases where, in the opinion of the District Magistrate, a Chief Presidency Magistrate, Sub-divisional Magistrate, or of any other Magistrate (not being a Magistrate of the third class) specially empowered by the State Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable,	144. (1) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, Sub-divisional Magistrate *or of any other Executive Magistrate* specially empowered by the State Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable,
such Magistrate may, by a written order stating the material fact of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life health or safety, or a disturbance of the public tranquillity or a riot, or an affray.	such Magistrate may, by a written order stating the material fact of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent or tends to prevent, obstruction, annoyance, or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed or danger to human life, health or safety, or a disturbance of public tranquillity, or a riot, or an affray.
Procedure where dispute concerning land, etc., is likely to cause breach of peace. 145. (1) Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that	145. (1) Whenever a District Magistrate, Sub-divisional Magistrate *or any other Executive Magistrate specially empowered by the State Government in*

Existing section.	Section as it will read after amendment.
a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.	*this behalf* is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.
Disputes concerning rights of use of immovable property, etc. 147. (1) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from a police report or other information that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (2) (whether such rights be claimed as an easement or otherwise), within the local limits of his jurisdiction he may make an order in writing stating he grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.	147. (1) Whenever any District Magistrate, Sub-divisional Magistrate *or any other Executive Magistrate specially empowered by the State Government in this behalf*, is satisfied, from a police report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145 sub-section (2) (whether such rights be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.
Power to record statements and confessions 164. (1) Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government may, if he is not a police officer, record any statement or confession made to him in the course of an	164. (1) *Any Presidency Magistrate, any District Magistrate, any Sub-divisional Magistrate, any Magistrate of the first class or any other Magistrate specially empowered by the State Government in this behalf* may, if he is not a police officer, record any,

Existing section.	Section as it will read after amendment.
investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.	statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.
Case to be sent to Magistrate when evidence is sufficient. 170. (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.	170. (1) No change.
(2) When the officer in charge of a police station forwards an accused person to a Magistrate or take security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.	(2) No chan
(3) If the Court of the District Magistrate or Sub-divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.	(3) *This sub-section is deleted.*

	Existing section.	Section as it will read after amendment.
Police to inquire and report on suicide, etc.	174. (5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and any Magistrate especially empowered in this behalf by the State Government or the District Magistrate.	174. (5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate *or any Executive Magistrate* especially empowered in this behalf by the State Government or the District Magistrate.
Power to issue summons or warrant for offence committed beyond local jurisdiction.	186. (1) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without the States) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in the States, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.	186. (1) When a Presidency Magistrate *or a Magistrate of the first class specially empowered in this behalf, by the State Government in consultation with the High Court*, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without the States) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in the States, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.
Procedure where warrant issued by subordinate Magistrate.	187. (1) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.	187. (1) If the person has been arrested under a warrant issued under section 186, *the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge* to whom he is subordinate unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

	Existing section.	Section as it will read after amendment.
Cognizance of offences by Magistrates.	190. (1) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—	190. (1) Except as hereinafter provided, any Presidency Magistrate * * * and *any* Magistrate specially empowered in this behalf *by the State Government in consultation with the High Court* may take cognizance of any offence—
	(*a*) upon receiving a complaint of facts which constitute such offence ;	(*a*) upon receiving a complaint of facts which constitute such offence ;
	(*b*) upon a report in writing of such facts made by any police-officer ;	(*b*) upon a report in writing of such facts made by any police-officer ;
	(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.	(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.
	(2) The State Government, or the District Magistrate subject to the general or special orders of the State Government, may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.	(2) The State Government * * * may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.
	(3) The State Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.	(3) The State Government may *in consultation with the High Court* empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.
Transfer of cases by Magistrates.	192. (1) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him.	192. (1) Any Chief Presidency Magistrate * * * may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.
	(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial ; and such Magistrate may dispose of the case accordingly.	(2) *A Sessions Judge* may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate *in the sessions division* who is competent under this Code to try the accused or commit him for trial ; and such Magistrate may dispose of the case accordingly.

	Existing section.	Section as it will read after amendment.
Cognizance of offences by Courts of Session.	193. (2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the State Government by general or special order may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.	(2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the State Government *in consultation with the High Court* by general or special order may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.
Power to commit for trial.	206. (1) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.	206. (1) Any Presidency Magistrate* * * or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government in *consultation with the High Court,* may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.
Power to stop proceeding when no complainant.	249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.	249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, *or any other Judicial Magistrate specially empowered in this behalf by the State Government in consultation with the High Court, may for* reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.
Power to try summarily.	260. (1) Notwithstanding anything contained in this Code,—	260. (1) Notwithstanding anything contained in this Code,—
	(*a*) The District Magistrate,	(*a*) *deleted.*
	(*b*) any Magistrate of the first class specially empowered in this behalf by the State Government, and	(*b*) any Magistrate of the first class specially empowered in this behalf by the State Government *in consultation with the High Court,* and
	(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the State Government,	(c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the State Government *in consultation with the High Court.*

Existing section.	Section as it will read after amendment.
may, if he or they think fit, try in a summary way all or any of the following offences :—	may, if he or they think fit, try in a summary way all or any of the following offences :—
(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;	(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;
(*b*) to (*l*)	(*b*) to (*l*)
(*m*) offences under section 20 of the Cattle Trespass Act, 1871 ;	(*m*) offences under section 20 of the Cattle Trespass Act, 1871 ;
Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.	Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.
Power to invest Bench of Magistrates invested with less power. 261. The State Government may confer on the Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—	261. The State Government may *in consultation with the High Court* confer on the Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—
(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, 447 and 504 ;	(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, 447 and 504 ;
(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month with or without fine ;	(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month with or without fine ;
(*c*) abetment of any of the foregoing offences ;	(*c*) abetment of any of the foregoing offences ;
(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.	(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.
Bench may be authorised to employ clerk. 265 (2) The State Government may authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.	265. (2) The State Government may *in consultation with the High Court* authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

Existing section.	Section as it will read after amendment.
State Government may order trials before Court of Session to be by jury.	
269. (1) The State Government may, by order in the *Official Gazette*, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may revoke or alter such order.	269. (1) The State Government may, *in consultation with the High Court* by order in the *Official Gazette*, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may revoke or alter such order.
Tender of pardon to accomplice.	
337. (1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:	337. (1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216-A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:
Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.	Provided that, where the offence is under inquiry or trial, no Magistrate of the first class * * shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the *sanction of the Sessions Judge* has been obtained to the exercise thereof.

	Existing section.	Section as it will read after amendment.
Procedure of State Magistrate in cases which he cannot dispose of.	346.(1) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.	346.(1) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the *Sessions Judge* directs.
Procedure when Magistrate cannot pass sentence sufficiently severe.	349.(1) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.	349.(1) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, *to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court,*
	(1A) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.	(1A) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to *the Magistrate empowered under sub-section* (*1*).
Conviction or commitment on evidence, partly recorded by one Magistrate and partly by another.	350. (1) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by	350. (1) No change.

Existing section.	Section as it will read after amendment.
himself; or he may re-summon the witnesses and recommence the inquiry or trial:	
Provided as follows :—	Provided as follows :—
(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;	(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;
(*b*) the High Court, or, in cases tried by Magistrates sub-ordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.	(*b*) the High Court, or, in cases tried by Magistrates* *, the *Court of Sessions* may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court * * is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.
Procedure in cases submitted by Magistrate not empowered to act under section 562. 380. Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.	380. Where proceedings are submitted to a Magistrate of the first class * * * as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.
Appeal from sentence of Magistrate of the second or third class. 407. (1) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.	407. (1) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a * Magistrate of the second class, may appeal to the *Court of Session*.
Transfer of appeals to first class Magistrate. (2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be	(2) The *Sessions Judge* may direct that any appeal under this section, or any class of such appeals, shall be heard

Existing section.	Section as it will read after amendment.
heard by any Magistrate of the first class subordinate to him and empowered by the State Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.	by any Magistrate of the first class subordinate to him and empowered by the State Government *in consultation with the High Court* to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the *Sessions Judge* may be transferred to such subordinate Magistrate. The *Sessions Judge* may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.
Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class. 408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magis rate of the first class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the first class, may appeal to the Court of Session:—	403. Any person convicted on a trial held by an Assistant Sessions Judge, *or a* Magistrate of the first class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the first class, may appeal to the Court of Session :
Provided as follows :—	Provided as follows :—
* * * *	
(*b*) when in any case an Assistant Sessions Judge or a Magis rate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal of all or any of he accused convicted at such trial shall lie to the High Court ;	(No change).
(*c*) when any person is convicted by a Magistrate of an offence under section 124-A of the Indian Penal Code, the appeal shall lie to the High Court.	
No appeal in petty cases. 413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a High Court passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or in which a Court of Session or District	413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a High Court passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or in which a

Existing section.	Section as it will read after amendment.
Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only.	Court of Session or a Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only.
Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.	*Explanation.*—(No change).
Power to call records of inferior Courts. 435. (1) The High Court or any Sessions Judge or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.	435. (1) The High Court or any Sessions Judge** may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.
Explanation.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437.	*Explanation.*—This has been deleted.
(2) If any Sub-divisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate,	(2) *The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person*

Existing section.	Section as it will read after amendment.
	is in confinement that he be released on bail on his own bond pending the examination of the record.
	(3) *If any Sub-divisional Magistrate acting under sub-section (2) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate.*
(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.	(4) *The High Court may call for and examine the record of any proceeding under section 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate.*
Power to order inquiry. 436. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into the case of any person accused of an offence who has been discharged :	436. (*1*) On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct *the Judicial Magistrate to make*, further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into the case of any person accused of an offence who has been discharged :
Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged, unless such person has had an opportunity of showing cause why such direction should not be made.	Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged, unless such person has had an opportunity of showing cause why such direction should not be made.
	(2) *On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-divisional Magistrate or any other Executive Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceedings :*
	Provided that no District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made.

	Existing section.	Section as it will read after amendment.
Power to order commitment.	437. When on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged :	437. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge* * considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge* * may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge* * improperly discharged :
	Provided as follows :—	Provided as follows :—
	(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;	(*a*) that the accused has had an opportunity of showing cause to such Judge* * why the commitment should not be made ;
	(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.	(*b*) that, if such Judge* * thinks that the evidence shows that some other offence has been committed by the accused, such Judge* * may direct the inferior Court to inquire into such offence.
Report to High Court.	438. (1) The Sessions Judge other than the Sessions Judge of the Court of the Session for Greater Bombay or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.	438. (1) The Sessions Judge other than the Sessions Judge of the Court of Session for Greater Bombay* * may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.
Procedure of Civil or Revenue Court in such cases.	479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency	479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency

	Existing section.	Section as it will read after amendment.
	Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.	Magistrate * * or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.
Order of maintenance of wives and children.	488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding one hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.	488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, *a Presidency Magistrate specially empowered by the State Government in this behalf or a Sub-divisional Magistrate*, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding one hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.
Power of State Subordinate Magistrate to apply for issue of commission.	506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary, for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate, shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.	506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary, for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, *such Magistrate, if he is a Judicial Magistrate shall apply to the Sessions Judge and if he is an Executive Magistrate shall apply to the District Magistrate*, stating the reasons for the application; *and the Sessions Judge or the District Magistrate, as the case may be*, may either issue a commission in the manner hereinbefore provided or reject the application.

	Existing section.	Section as it will read after amendment.
Appeal from and revision of orders under section 514.	515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.	515. *All orders passed under section 514 by Executive Magistrate other than the District Magistrate shall be appealable to the District Magistrate and by any Judicial Magistrate other than by a Presidency Magistrate to the Sessions Judge and if no appeal is made against such orders they may be revised in the case of the orders passed by any Executive Magistrate, by the District Magistrate and in the case of the orders passed by a Judicial Magistrate by the Sessions Judge.* *Appeal from and revision of orders under section 514.*
Procedure where no claimant appears within six months.	524. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the State Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first class empowered by the State Government in this behalf.	524. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the State Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or *of an Executive Magistrate* empowered by the State Government in this behalf.
District or Sub-divisional Magistrate may withdraw or refer cases.	528. (2) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.	528. (2) Any Chief Presidency Magistrate *or Sessions Judge* may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same. *Chief Presidency Magistrate or Sessions Judge may withdraw or refer cases.*
Provision for powers of Judges and Magistrates being exercised by their successors in office.	559 (2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes, of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.	559. (2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency town, and *outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates*, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

Existing section.	Section as it will read after amendment.
Special provisions with respect of offences of rape by a husband.	
561. (1) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall	561. (1) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or *a Magistrate of the first class* shall
(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or ;	(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or
(*b*) commit the man for trial for the offence.	(*b*) commit the man for trial for the offence.
(2) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (*1*) no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in the investigation.	(2) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or *a Magistrate of the first class* deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (*1*), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.
Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.	
562. (1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :	562. (1) No change.

Existing section.	Section as it will read after amendment.
Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not especially empowered by the State Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.	Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not especially empowered by the State Government in this behalf and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class* *, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.
Order for notifying address of previously convicted offender. 565. (1) When any person having been convicted—	565. (1) When any person having been convicted—
(*a*) by a Court in the States of an offence punishable under section 215, Section 489-A, section 489-B, section 489-C, or section 489-D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or	(*a*) by a Court in the States of an offence punishable under section 215, section 489-A, section 489-B, section 489-C, or section 489-D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or
(*b*) before the 26th day of January 1950, by a court or tribunal in any Indian state acting under the general or special authority of the Central Government or of the Crown Representative of any offence which would, if committed in the States have been punishable under any of the aforesaid sections, or Chapters of the Indian Penal Code with like imprisonment for a like term, is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate	(*b*) before the 26th day of January 1950, by a court or tribunal in any Indian state acting under the general or special authority of the Central Government or of the Crown Representative of any offence which would, if committed in the States have been punishable under any of the aforesaid sections, or Chapters of the Indian Penal Code with like imprisonment for a like term is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate*, or* Magistrate of the first class, such Court or Magistrate

Existing section.	Section as it will read after amendment.
or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.	may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

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PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

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PAGES

BOMBAY ACT No. XXIII OF 1951—An Act to provide for the separation of judicial and executive functions in the State of Bombay 127-152

The following Act of the Bombay Legislature having been assented to by the President on the 28th June 1951 is hereby published for general information.

J. R. DHURANDHAR,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXIII OF 1951.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 5th July 1951.)

An Act to provide for the separation of judicial and executive functions in the State of Bombay.

WHEREAS it is expedient to provide for the separation of the performance of judicial and executive functions by officers in the State of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Separation of Judicial and Executive Functions Act, 1951.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

Amendments to enactments.

2. The Central Acts specified in Parts I and II of the Schedule appended to this Act (hereinafter called the Schedule) in their application to the State of Bombay and the Bombay Acts specified in Part III of the Schedule are hereby amended to the extent mentioned in the fourth column of the Schedule.

Amendments not to render invalid notifications, orders, etc., issued before commencement of Act.

3. The provisions of this Act which amend any Act specified in the Schedule so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, by-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act ; and any such notification, order, commitment, attachment, by-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such a case.

Saving.

4. Nothing in this Act shall be deemed to affect—

(*a*) the validity, invalidity, effect or consequence of anything done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area ;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred before such date ;

(*c*) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date ;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment ;

(*e*) any legal proceeding pending in any Court or before any officer on the aforesaid date or anything done or suffered to be done in the course of such proceeding ; and any such proceeding or any appeal or revisional proceedings arising out of such proceeding shall be instituted, continued or disposed of, as the case may be, as if this Act had not come into force.

SCHEDULE.

(*See* section 2.)

PART I.—THE CODE OF CRIMINAL PROCEDURE, 1898.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898.	1. For section 6, the following shall be substituted, namely :— "6. Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in the State of Bombay, namely :— I.—Courts of Session. II.—Courts of Magistrates." Classes of Criminal Courts.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	2. After section 6, the following shall be inserted, namely :— "*A-1. Classes of Magistrates.* 6-A. There shall be the following classes of Magistrates, namely :— (Classes of Magistrates.) *I. Judicial Magistrates.* (1) Presidency Magistrates. (2) Magistrates of the first class. (3) Magistrates of the second class. (4) Magistrates of the third class. (5) Special Judicial Magistrates. *II. Executive Magistrates.* (1) District Magistrates. (2) Sub-Divisional Magistrates. (3) Taluka Magistrates. (4) Presidency Magistrates specially empowered by the State Government. (5) Special Executive Magistrates." 3. For section 7, the following shall be substituted, viz. :— "7. (*1*) The State of Bombay shall consist of Sessions divisions; and every sessions division shall for the purposes of this Code, be a district or consist of districts. (Sessions divisions and Districts.) (*2*) For the purposes of this Code, Greater Bombay shall be a sessions division and be deemed to be a district. (*3*) The State Government may alter the limits or the number of such divisions and districts. (*4*) The sessions divisions and districts existing when the Bombay Separation of Judicial and Executive Functions Act, 1951, comes into force shall be sessions divisions and districts respectively, unless and until they are so altered." Bom. XXIII of 1951.

Year	No.	Short title	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	4. In section 8, in sub-section (*1*), for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted.
			5. In section 9,— (*i*) in sub-section (*1*), after the words "sessions division, and" the words "in consultation with the High Court" shall be inserted ; (*ii*) in sub-section (*3*), after the words "may also" the words "in consultation with the High Court" shall be inserted ; (*iii*) in sub-section (*4*), after the words "sessions division may" the words "in consultation with the High Court" shall be inserted.
			6. In section 10,— (*i*) in sub-section (*1*),— (*a*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted ; (*b*) the words "Magistrate of the first class who shall be called the" shall be deleted ; (*ii*) in sub-section (*2*), the words "any Magistrate of the first class to be" shall be deleted ; (*iii*) sub-section (*3*) shall be deleted.
			7. In section 12,— (*i*) in sub-section (*1*),— (*a*) the words "besides the District Magistrate" shall be deleted ; (*b*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted ; (*c*) the words "the State Government or the District Magistrate, subject to the control of the State Government" shall be deleted ;

Year	No.	Short title	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely :— "(*1-A*) The power of appointment of Magistrates under sub-section (*1*) shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification." ; (*iii*) for the marginal note to the said section, the following shall be substituted, namely :— "Judicial Magistrates." 8. In section 13,— (*i*) in sub-section (*1*), the words "of the first or second class" shall be deleted and after the words "sub-division" the words "or a taluka" shall be inserted ; (*ii*) in sub-section (*2*), after the words "Sub-divisional Magistrates" the words "or Taluka Magistrates, as the case may be" shall be added ; (*iii*) in the marginal note to the said section, the words "or taluka" shall be added. 9. For section 14, the following shall be substituted, namely :— "14. (*1*) The State Government may, in consultation with the High Court, confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may in consultation with the High Court by general or special order direct. Special Magistrates. (*2*) The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may by general or special order direct: Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assistant Superintendent and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force. (*3*) The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (*2*)." 10. In section 15, in sub-section (*1*), for the words "The State Government may direct any two or more Magistrates in any place outside the presidency-towns" the words "The State Government may, in consultation with the High Court, direct any two or more Judicial Magistrates in any place outside Greater Bombay" shall be substituted. 11. In section 16, for the words "The State Government may, or, subject to the control of the State Government, the District Magistrate" the words "The High Court, subject to the sanction of the State Government" shall be substituted. 12. In section 17,— (*i*) in sub-section (*1*),— (*a*) for the words "All Magistrates" the words "All Judicial Magistrates" shall be substituted; (*b*) the figures ",13" shall be deleted; (*c*) for the words "District Magistrate" the words "Sessions Judge" shall be substituted; (*d*) the word "and" at the end shall be deleted; (*ii*) sub-section (*2*) and sub-section (*5*) shall be deleted;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*iii*) in the marginal note to the said section, for the word "Magistrates" the words "Judicial Magistrates" and for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

13. After section 17, the following sections shall be inserted, namely :—

"17A. All Executive Magistrates appointed under sections 13 and 14 shall be subordinate to the District Magistrate.

Subordination of Executive Magistrates to District Magistrate.

17B. Courts of Session and Courts of Magistrates (including Courts of Presidency Magistrates) shall be Criminal Courts inferior to the High Court and Courts of Magistrates outside Greater Bombay shall be Criminal Courts inferior to the Court of Session."

Inferior Criminal Courts.

14. In section 18, after sub-section (*4*) the following sub-section shall be added, namely :—

"(*5*) The power of appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of appointment of other Presidency Magistrates shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification."

15. In section 29B,—

(*i*) the words "a District Magistrate or" shall be deleted ;

(*ii*) for the words "by any Magistrate specially empowered by the State Government" the words "by any Judicial Magistrate specially empowered by the State Government in consultation with the High Court" shall be substituted.

16. In section 36, for the words "District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	17. For section 37, the following shall be substituted, namely :— "37. In addition to his ordinary powers, the State Government may invest any Magistrate with the powers as specified in the fourth Schedule : Additional powers conferrable on Magistrates. Provided that in the case of Judicial Magistrates such powers shall be conferred in consultation with the High Court : Provided further that the State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the fourth Schedule." 18. In section 38, for the words "conferred on" the words "delegated to" shall be substituted. 19. After section 38, the following section shall be inserted, namely :— "38A. Whenever under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution any judicial powers are to be conferred on a Sessions Judge, an Additional or Assistant Sessions Judge or a Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may not expressly provide for such consultation. Powers on Judicial Magistrates to be conferred in consultation with the High Court. *Explanation.*—For the purposes of this section, the question whether any powers are judicial shall be decided by the State Government in consultation with the High Court and such decision shall be final."

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	20. In section 41, to sub-section (*1*) the following proviso shall be added, namely :— "Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court."
			21. In section 57, in sub-section (*2*), for the words "before a Magistrate if so required" the words "before a Magistrate having jurisdiction if so required" shall be substituted.
			22. In section 63, for the words "special order of a Magistrate" the words "special order of a Magistrate having jurisdiction" shall be substituted.
			23. In section 78, in sub-section (*1*), after the words "or Sub-divisional Magistrate" the words "or Magistrate of the first class" shall be inserted.
			24. In section 88, in sub-section (*6C*), the words beginning with the words "of the first" and ending with the words "may be" shall be deleted.
			25. In section 94, in sub-section (*1*) for the words "beyond the limits of the towns of Calcutta and Bombay" the words "beyond the limits of Greater Bombay" shall be substituted.
			26. In section 106, in sub-section (*1*), the words "a District Magistrate, a Sub-divisional Magistrate" shall be deleted.
			27. In section 107, in sub-section (*1*), for the words "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" the following shall be substituted, namely :— "Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or Sub-divisional Magistrate or a Taluka Magistrate specially empowered by the State Government in this behalf".

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	28. In section 108, for the words "or a Presidency Magistrate, or Magistrate of the first class" the words "or Sub-divisional Magistrate or a Presidency Magistrate" shall be substituted.
			29. In section 109, for the words "Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			30. In section 110, for the words "Presidency Magistrate, District Magistrate, or Sub-Divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the State Government" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			31. In section 126,— (*i*) In sub-section (*1*), for the words beginning with the words "to a Presidency Magistrate" and ending with the words "first class" the words "to the Court by which an order was made to give security" shall be substituted; (*ii*) for sub-section (*2*), the following shall be substituted, namely:— "(*2*) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it."
			32. In section 133, in sub-section (*1*),— (*i*) for the words "District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate" shall be substituted; (*ii*) in the last paragraph for the words "to appear before himself or some other Magistrate of the first or second class" the words "to appear before himself or some other Executive Magistrate" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	33. In section 143, for the words "A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf" the words "A Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate or any Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf" shall be substituted. 34. In section 144, in sub-section (*1*), for the words and brackets "or of any other Magistrate (not being a Magistrate of the third class)" the words "or of any other Executive Magistrate" shall be substituted. 35. In section 145, in sub-section (*1*), for the words "or Magistrate of the first class" the words "or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted. 36. In section 147, in sub-section (*1*), for the words "or Magistrate of the first class" the words "or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted. 37. In section 164, in sub-section (*1*), for the words "Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government" the words "Any Presidency Magistrate, any District Magistrate, any Sub-divisional Magistrate, any Magistrate of the first class or any other Magistrate specially empowered by the State Government in this behalf" shall be substituted. 38. In section 167,— (*i*) in sub-section (*1*), for the words "the nearest Magistrate" the words "the nearest Judicial Magistrate" shall be substituted;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*ii*) for sub-section (*4*), the following shall be substituted, namely :— "(*4*) Any Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge."

39. In section 170, sub-section (*3*) shall be deleted.

40. In section 174, in sub-section (*5*), for the words "or Magistrate of the first class and any Magistrate" the words "or any Executive Magistrate" shall be substituted.

41. In section 186, in sub-section (*1*), for the words "a District Magistrate, a Sub-divisional Magistrate, or if he is specially empowered in this behalf by the State Government, a Magistrate of the first class" the words "or a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted.

42. In section 187, in sub-section (*1*), for the words "by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate" the words "the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge" shall be substituted.

43. In section 190,—

(*i*) in sub-section (*1*),

(*a*) the words "District Magistrate or Sub-divisional Magistrate" shall be deleted;

(*b*) for the words "any other" the words "any Judicial" shall be substituted;

(*c*) after the words "in this behalf" the words "by the State Government in consultation with the High Court" shall be inserted;

(*ii*) in sub-section (*2*), the words ", or the District Magistrate subject to the general or special orders of the State Government," shall be deleted;

(*iii*) in sub-section (*3*), after the words "the State Government may" the words "in consultation with the High Court" shall be inserted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	44. In section 192,— (*i*) in sub-section (*1*), the words ", District Magistrate or Sub-divisional Magistrate" shall be deleted; (*ii*) in sub-section (*2*),— (*a*) for the words "any District Magistrate" the words "A Sessions Judge" shall be substituted; (*b*) for the words "in his district" the words "in the sessions division" shall be substituted. 45. In section 193, in sub-section (*2*), after the words "the State Government" the words "in consultation with the High Court" shall be inserted. 46. In section 206, in sub-section (*1*),— (*i*) the words "District Magistrate, Sub-divisional Magistrate" shall be deleted; (*ii*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 47. In section 249, for the words "or with the previous sanction of the District Magistrate, any other Magistrate" the words "or any other Judicial Magistrate specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted. 48. In section 260, in sub-section (*1*),— (*i*) the clause "(*a*) the District Magistrate," shall be deleted; (*ii*) in clauses (*b*) and (*c*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 49. In section 261, after the words "The State Government may" the words "in consultation with the High Court" shall be inserted. 50. In section 265, in sub-section (*2*), after the words "The State Government may" the words "in consultation with the High Court" shall be inserted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	51. In section 269, in sub-section (*1*), after the words "The State Government may" the words "in consultation with the High Court" shall be inserted.
			52. In section 337, in the proviso to sub-section (*1*), the words "other than the District Magistrate" shall be deleted, and for the words "sanction of the District Magistrate" the words "sanction of the Sessions Judge" shall be substituted.
			53. In section 346, in sub-section (*1*),— (*i*) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted; (*ii*) after the words "District Magistrate" the words "or Sessions Judge, as the case may be," shall be inserted.
			54. In section 349,— (*i*) in sub-section (*1*), for the words "to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate" the words "to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted; (*ii*) in sub-section (*1A*), for the words "the District Magistrate or Sub-divisional Magistrate" the words, brackets and figure "the Magistrate empowered under sub-section (*1*)" shall be substituted.
			55. In section 350, in proviso (*b*) to sub-section (*1*), for the words "subordinate to the District Magistrate, the District Magistrate" the words ", the Court of Session" shall be substituted; and the words "or District Magistrate" shall be deleted.
			56. In section 380, the words "or a Sub-divisional Magistrate" shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	57. In section 407,— (*i*) in sub-section (*1*),— (*a*) the word "sub-divisional" shall be deleted; (*b*) for the words "District Magistrate" the words "Court of Session" shall be substituted; (*ii*) in sub-section (*2*),— (*a*) for the words "District Magistrate", wherever they occur, the words "Sessions Judge" shall be substituted; (*b*) after the words "State Government" the words "in consultation with the High Court" shall be inserted. 58. In section 408, for the words, "a District Magistrate or other" the words "or a" shall be substituted. 59. In section 413, for the words "District Magistrate or other" the letter "a" shall be substituted. 60. In section 428, in sub-section (*1*), for the words "by a Magistrate" the words "by a Judicial Magistrate" shall be substituted.

the State Government in this behalf," and the Explanation to the said sub-section shall be deleted;

(*ii*) for sub-sections (*2*) and (*4*), the following shall be substituted, namely :—

"(*2*) The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement that he be released on bail on his own bond pending the examination of the record.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*3*) If any Sub-divisional Magistrate acting under sub-section (*2*) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate. (*4*) The High Court may call for and examine the record of any proceeding under section 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate."

62. In section 436,—

(*i*) the said section shall be renumbered as sub-section (*1*) of that section;

(*ii*) in sub-section (*1*) so renumbered for the words "'the District Magistrate by himself or by any of the Magistrates subordinate to him, to make, andthe District Magistrate may himself make, or direct any subordinate Magistrate to make" the words "the Judicial Magistrate to make," shall be substituted;

(*iii*) the following new sub-section shall be added, namely :—

"(*2*) On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceedings :

Provided that no District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made."

63. In section 437, the words "or District Magistrate" and the words "or Magistrate", wherever they occur, shall be deleted.

64. In section 438, the words "or District Magistrate" shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	65. In section 479, the words ", District Magistrate" shall be deleted.
			66. In section 488, in sub-section (*1*), the words ", the District Magistrate," and the words ", a Sub-divisional Magistrate" shall be deleted.
			67. In section 506—
			(*i*) for the words "such Magistrate, shall apply to the District Magistrate" the following shall be substituted, namely :—
			"such Magistrate, if he is a Judicial Magistrate shall apply to the Sessions Judge and if he is an Executive Magistrate shall apply to the District Magistrate,"
			(*ii*) for the words "and the District Magistrate" the words "and the Sessions Judge or the District Magistrate, as the case may be," shall be substituted.
			68. For section 515, the following shall be substituted, namely :—
			"515. All orders passed under section 514 by an Executive Magistrate other than the District Magistrate shall be appealable to the District Magistrate and by a Judicial Magistrate other than a Presidency Magistrate to the Sessions Judge and if no appeal is made against such orders they may be revised in the case of the orders passed by an Executive Magistrate by the District Magistrate and in the case of the orders passed by a Judicial Magistrate by the Sessions Judge."
			Appeal from, and revision of, orders under section 514.
			69. In section 524, in sub-section (*1*), for the words "of a Magistrate of the first class" the words "of an Executive Magistrate" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	70. In section 528, in sub-section (*2*)— (*i*) for the words "District Magistrate or Sub-Divisional Magistrate" the words "or Sessions Judge" shall be substituted; (*ii*) in the marginal note to the said sub-section, for the words "District or Sub-divisional Magistrate" the words "Chief Presidency Magistrate or Sessions Judge" shall be substituted. 71. In section 559, in sub-section (*2*), for the words "the District Magistrate outside such towns," the words "outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates," shall be substituted. 72. In section 561, for the words "District Magistrate", wherever they occur, the words "a Magistrate of the first class" shall be substituted. 73. In section 562, in the proviso to sub-section (*1*), the words "or Sub-divisional Magistrate," shall be deleted. 74. In section 565, in sub-section (*1*), the words "District Magistrate, Sub-divisional Magistrate" shall be deleted. 75. In Schedule II, in column 8,— (*i*) for the words "Any Magistrate", wherever they occur, the words "Any Judicial Magistrate" shall be substituted; (*ii*) in the entry relating to section 124-A, the words "or District Magistrate" shall be deleted and after the words "in that behalf" the words "in consultation with the High Court" shall be inserted; (*iii*) in the entry relating to section 376, for the words "District Magistrate" the words "Magistrate of the first class" shall be substituted. 76. In Schedule III,— (*a*) In Part I, in item (17), for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*b*) In Part III,— (*i*) after item (1) the following shall be inserted, namely :— (1a) Power to direct warrants to landholders, section 78 ; (*ii*) items (4), (5), (6), (6*a*), (7) and (7*b*) shall be deleted. (*c*) after Part III the following shall be inserted, namely :— "*III-A—Ordinary powers of a Taluka Magistrate.* (1) Power to arrest or direct the arrest of, and to commit to custody a person committing an offence in his presence, section 64. (2) Power to arrest, or direct the arrest, in his presence of an offender, section 65. (3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 85. (4) Power to require search to be made for letters and telegrams, section 95. (5) Power to issue search warrant, section 96. (6) Power to endorse a search warrant and order delivery of things found, section 99. (7) Power to command unlawful assembly to disperse, section 127. (8) Power to use civil force to disperse unlawful assembly, section 128. (9) Power to require military force to be used to disperse unlawful assembly, section 130. (10) Power to apply to District Magistrate to issue commission for examination of witness, section 506. (11) Power to recover penalty on forfeited bond, section 514 and to require fresh security, section 514-A. (12) Power to make order as to disposal of property, section 517. (13) Power to sell property of a suspected character, section 525."

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	(*d*) In Part IV,— (*i*) for item (1), the following shall be substituted, namely :— "(1) The ordinary powers of a Taluka Magistrate;" (*ii*) after item (2), the following shall be inserted, namely : "(2*a*) Power to issue search warrant otherwise than in course of an inquiry, section 98. (2*b*) Power to issue search warrant for discovery of persons wrongfully confined, section 100. (2*c*) Power to require security to keep the peace, section 107. (2*d*) Power to require security for good behaviour, section 109."; (*iii*) after item (3), the following shall be inserted, namely :— "(4) Power to discharge sureties, section 126A. (4*a*) Power to make orders as to local nuisances, section 133."; (*iv*) after item (6), the following shall be inserted, namely :— "(6*a*) Power to make orders etc. in possession cases, sections 145, 146 and 147."; (*v*) after item (8), the following shall be inserted, namely :— "(8*a*) Power to record statements and confessions during a police investigation, section 164."; (*vi*) after item (9), the following shall be inserted, namely :— "(10) Power to hold inquests, section 174."; (*vii*) items (12) to (16) (both inclusive) shall be deleted; (*viii*) item (19) shall be deleted; (*e*) in Part V, items (1*a*), (7), (8), (10), (12), (13) and (14) shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*contd.*	77. For Schedule IV, the following shall be substituted, namely :—

"SCHEDULE IV.

(*See* section 37.)

Additional powers with which Magistrates may be invested.

PART I.—BY STATE GOVERNMENT.

Powers with which a Magistrate of the First Class may be invested.

1. Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 ;

2. Power to take cognisance of offences upon complaint, section 190 ;

3. Power to take cognisance of offences upon police reports, section 190 ;

4. Power to take cognisance of offences without complaint, section 190 ;

5. Power to transfer cases, section 192 ;

6. Power to try summarily, section 260 ;

7. Power to pass sentence on proceedings recorded by a Magistrate of the Second and Third Class, section 349 ;

8. Power to hear appeals from conviction by Magistrate of the Second and Third Class, section 407 ;

9. Power to try cases under section 124-A of the Indian Penal Code.

Powers with which a Magistrate of the Second Class may be invested.

1. Power to record statements and confessions during a police investigation, section 164 ;

2. Power to authorise detention of a person in the custody of the police during a police investigation, section 167 ;

3. Power to take cognisance of offences upon complaint, section 190 ;

4. Power to take cognisance of offences upon police reports, section 190 ;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*concld.*	5. Power to take cognisance of offences without complaint, section 190; 6. Power to commit for trial, section 206; 7. Power to stop proceedings instituted otherwise than upon complaint, section 249; 8. Power to make order as to first offenders, section 562. *Powers with which a Magistrate of the Third Class may be invested.* 1. Power to record statement and confessions during a police investigation, section 164; 2. Power to take cognisance of offences upon complaint, section 190; 3. Power to take cognisance of offences upon police report, section 190; 4. Power to stop proceedings instituted otherwise than upon complaint, section 249. PART II.—BY STATE GOVERNMENT. *Powers with which a Sub-divisional Magistrate may be invested.* 1. Power to call for records, section 435. *Powers with which any other Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to make orders, etc., in possession cases, sections 145 and 147; 4. Power to record statements and confessions during a police investigation, section 164; 5. Power to hold inquests, section 174; 6. Power to sell property alleged or suspected to have been stolen, etc., section 524. BY DISTRICT MAGISTRATE. *Powers with which any Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to hold inquests, section 174."

PART II—OTHER CENTRAL ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1889	I	The Metal Tokens Act, 1889.	In section 5, in sub-section (2), the words "except a District Magistrate or Sub-Divisional Magistrate," shall be deleted.
1894	IX	The Prisons Act, 1894.	In section 52,— (*i*) the words "of the District Magistrate or" shall be deleted; (*ii*) in the first proviso, the words "by the District Magistrate to any Magistrate of the first class and" shall be deleted.
1897	VIII	The Reformatory Schools Act, 1897.	1. In section 8, in sub-section (2), for the words "by the State Government in this behalf" the words "by the State Government in this behalf in consultation with the High Court" shall be substituted. 2. In section 9, in sub-section (1), for the words "the District Magistrate to whom he is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (2) of section 8" shall be substituted. 3. In section 10, for the words "District Magistrate" the words, brackets and figures "Magistrate specially empowered under sub-section (2) of section 8" shall be substituted. 4. In section 11, in sub-section (2), for the words "District Magistrate" the words "Magistrate specially empowered" shall be substituted. 5. In section 31,— (*i*) in sub-section (4) for the words "the District Magistrate to whom such Court is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (2) of section 8" shall be substituted; (*ii*) in sub-section (5), the word "District" shall be deleted.
1900	III	The Prisoners Act, 1900.	In section 37, for the words "District Magistrate" the words "Sessions Judge" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1911	X	The Prevention of Seditious Meetings Act, 1911.	In section 8, the words " or Sub-divisional Magistrate " shall be deleted.
1917	I	The Inland Steam-vessels Act, 1917.	1. In section 33, in clause (*b*) of sub-section (*1*), the words " or the Court of any District Magistrate " shall be deleted. 2. In section 35, in sub-section (*1*), the words " or the Court of the District Magistrate," shall be deleted. 3. In section 38, in clause (*b*), the words " or the Court of the District Magistrate " shall be deleted and for the words " respectively by either Court " the words " by it " shall be substituted.
1923	IX	The Indian Official Secrets Act, 1923.	In section 13, in sub-section (*1*), after the words " Government " the words " or that of a Presidency Magistrate " shall be inserted and the words " which is inferior to that of a District or Presidency Magistrate " shall be deleted.
1927	XVI	The Indian Forest Act, 1927.	In section 67, after the words " The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the State Government " the words " any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court," shall be substituted.

PART III—BOMBAY ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VII	The Bombay District Police Act, 1867.	In section 34, for the words " a Magistrate of the first class " the words " the District Magistrate or any magistrate specially empowered in this behalf by the State Government " shall be substituted

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VIII	The Bombay Village Police Act, 1867.	1. In section 1, the following paragraph shall be added, namely :— "The term 'Executive Magistrate' when used in this Act has the meaning assigned to it in the Code of Criminal Procedure, 1898." V of 1898. 2. In section 6, for the words "the Magistrate", where they occur for the second time, the words "any other executive Magistrate" shall be substituted. 3. In section 8, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted. 4. In sections 9 and 9A, for the words "any Magistrate of the first class" and "Any Magistrate of the first class" the words "the Magistrate of the District" and "The Magistrate of the District" shall, respectively, be substituted. 5. In sections 19 and 21, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted.
I		The Bombay Village Sanitation Act, 1889.	In section 15, in sub-section (*1*), for the words beginning with the words "or other" and ending with the words "in this behalf" the words "or any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted.
1929	XVIII	The Bombay Borstal Schools Act, 1929.	1. In section 8, the words "a District Magistrate, a sub-divisional Magistrate" shall be deleted. 2. In section 9, for the words "District Magistrate", wherever they occur, the words "Magistrate of the first class" shall be substituted.
1933	VI	The Bombay Village Panchayats Act, 1933.	1. In section 77,— (*i*) in sub-section (*1*), for the words "District Magistrate" the words "Sessions Court" shall be substituted; (*ii*) in sub-section (*2*),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted; (*b*) the words "or Magistrate" shall be deleted:

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1933	VI	The Bombay Village Panchayats Act, 1933 —*contd.*	(*iii*) in sub-section (3),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted; (*b*) the words "or Magistrate" shall be deleted; (*iv*) in the marginal note to the said section, for the words "District Magistrate" the words "Sessions Court" shall be substituted. 2. In sections 78, 79, 87, 87A and 87B and in the marginal notes to sections 87, 87A and 87B, for the words "District Magistrate", wherever they occur, the words "Sessions Court" shall be substituted.
1938	XIX	The Bombay Probation of Offenders Act, 1938.	In section 3, in sub-section (*1*), clauses (*c*) and (*d*) shall be deleted.
1947	LI	The Bombay Habitual Offenders Restriction Act, 1947.	In section 13,— (*i*) in clause (*i*), for the words "by a Magistrate" the words "by an Executive Magistrate" shall be substituted; (*ii*) in clause (*ii*), after the words "made by" the words "a Judicial Magistrate or" shall be inserted.
1948	LXXI	The Bombay Children Act, 1948.	1. In section 8, clauses (*c*) and (*d*) shall be deleted. 2. In section 41, for the words "District Magistrate or Sub-Divisional Magistrate" the words "Sessions Judge" shall be substituted. 3. In section 80,— (*i*) for the words beginning with the words "the court shall submit" and ending with the words "it is subordinate." the words and figure "the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate" shall be substituted; (*ii*) in the marginal note to the said section, for the words "District Magistrate" the words "First Class Magistrate" shall be substituted. 4. In section 94, in sub-section (*2*), clause (*a*), for the words "District Magistrate" the words "Court of Session" shall be substituted.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the " Bombay Government Gazette ". The dates of publication to be reported.]

The following report of the Select Committee of the Bombay Legislative Assembly on the Bill to provide for the separation of judicial and executive functions in the State of Bombay and the Bill as amended by the Select Committee are, in accordance with the provisions of sub-rule (3) of rule 88 of the Bombay Legislative Assembly Rules, published for general information :—

L. A. BILL No. III OF 1951.

A Bill to provide for the separation of judicial and executive functions in the State of Bombay.

REPORT OF THE SELECT COMMITTEE.

We, the members* of the Select Committee appointed to consider Bill No. III of 1951 (A Bill to provide for the separation of judicial and

*The signatures of Shri H. V. Pataskar, Shri V. P. Pawar, Shri H. P. Shukla, Shri M. M. A. Bhaiji, Shri Purshottam Trikamdas, Shri P. K. Bhapkar and Shri S. L. Karandikar will be notified when received.

executive functions in the State of Bombay), beg to submit our report as follows :–

We have carefully considered the provisions of the Bill and various enactments in which amendments are necessary to carry out the object of the Bill. The enactments in which such amendments are necessary are set out in the Schedule appended to the Bill. Part I of the Schedule contains amendments proposed to be made in the provisions of the Code of Criminal Procedure, 1898. The other parts relate to other enactments. Some of the enactments referred to in the Schedule apply to the whole of India. But as the amendments proposed to be made by this Bill are to be inserted in those enactments in their application to the State of Bombay only, we have taken an opportunity to clarify the provisions of the said enactments in such manner as would make them more intelligible in such application. The principal changes suggested by us are set out below:—

SCHEDULE.

PART I—CODE OF CRIMINAL PROCEDURE, 1898.

Entry No. 1.—We have made it clear in section 6 that besides the High Courts there are two kinds of Criminal Courts to which the Code applies, viz. (1) The Courts of Sessions, (2) The Courts of Magistrates.

Entry No. 2.—In the new section 6A we have specified various kinds of Magistrates falling under two classes : Judicial and Executive Magistrates.

Entry No. 3.—We have amended section 7 in order that it should suitably apply to the State of Bombay.

Entries Nos. 5, 9, 10, 15, 19, 45 and 46.—In the various provisions of the Code which relate to investing a Sessions Judge, Additional or Assistant Sessions Judge or a Judicial Magistrate with judicial powers to be exercised under the Code, we have made it clear that the Judges or Magistrates will be invested with these powers in consultation with the High Court. We have also added a new provision that in any provision of the Code or any other law where such officer is to be empowered to exercise such power, such empowering will be made in consultation with the High Court although no express provision might have been made for the purpose.

Entry No. 13.—We have inserted a new section 17B to make it clear that Courts of Session and Courts of Magistrates shall be Criminal Courts inferior to the High Court, and the Courts of Magistrates shall be inferior to the Court of Session.

Entry No. 20.—As investing Judicial Magistrates with powers will be made in consultation with the High Court, we have provided that the withdrawal of such powers shall also be made in consultation with the High Court.

Entries Nos. 27 to 30, 32 to 36.—We have provided that the powers under sections 107 to 110, 133, 143 to 145 and 147 shall be exercised by the Executive Magistrates.

Entry No. 37.—This relates to confessions and statements during the Police inquiry. We have provided that the confessions and such statements shall be taken before the classes of Magistrates specified in the section.

Entry No. 40.—We have provided that inquests shall be held by Executive Magistrates only.

Entries Nos. 41 and 42.—We have provided in sections 186 and 187 of the Code that the powers to issue summons or warrants for offences committed beyond jurisdiction shall be issued by Judicial Magistrates and after the accused is brought before them, he shall be placed before the Sessions Court to which such Magistrates may be subordinate.

Entry No. 43.—The power to take cognizance of offence being judicial we have provided in section 190 that the said power shall be exercised by a Judicial Magistrate.

Entries Nos. 61 and 62.—We have revised the provisions of section 435 and made it clear that the power of the District Magistrate or Sub-divisional Magistrate to call for and examine the record of proceedings shall be exercised by such Magistrates over the proceedings of Executive Magistrates only. Consequential amendments have been made in section 436.

Entry No. 67.—We have revised the provisions of section 506 and made it clear that the Judicial Magistrate shall make the application to the Sessions Judge while an Executive Magistrate to the District Magistrate for orders under this section.

Entry No. 77.—We have revised the Schedules to the Code and brought them in line with various amendments made in the sections of the Code.

PARTS II AND III.

Changes have been made in the provisions of various enactments set out in the said Parts on the lines of those made in Part I.

We have appended an appendix to this report showing in parallel columns the provisions of the enactments as they stand at present and as they are proposed to be amended.

We are indebted to one of our members Shri. B. D. Lala, for his useful suggestions as a result of a careful and detailed examination of various enactments.

(Signed) MORARJI DESAI.

(Signed) DINKARRAO N. DESAI.

(Signed) Y. B. CHAVAN.

(Signed) B. D. LALA.

(Signed) MUSTAFA FAKIH.

(Signed) R. A. KULKARNI.

(Signed) S. GORE.

(Signed) S. P. MAKWANA.

(Signed) C. J. SUTARIA.

(Signed) VIJAY KUMAR M. TRIVEDI.

(Signed) N. B. DALVAI.

APPENDIX

to the Report of the Select Committee on L. A. Bill No. III of 1951 (A Bill to provide for the separation of judicial and executive functions in the State of Bombay).

Note.—*Additions and substitutions are shown by italics and deletions are shown in asterisks.*

Provisions of the Code of Criminal Procedure, 1898 (except the Schedules) as they exist at present and the provisions as they would read after they are amended.

Existing section.	Section as it will read after amendment.
Classes of Criminal Courts. 6. Besides the High Courts and the Courts constituted under any law other than this Code, for the time being in force, there shall be five classes of Criminal Courts in the States, namely :—	6. *Besides the High Court and the Courts constituted under any law other than this Code, for the time being in force, there shall be two classes of Criminal Courts in the State of Bombay, namely :—* *Classes of Criminal Courts.*
I.—Courts of Session ;	*I.—Courts of Session ;*
II.—Presidency Magistrates ;	*II.—Courts of Magistrates.*
III.—Magistrates of the first class ;	
IV.—Magistrates of the second class ;	
V.—Magistrates of the third class.	
	A-1. *Classes of Magistrates.*
	6A. There shall be the following classes of Magistrates, namely :— *Classes of Magistrates.*
	I. Judicial Magistrates.
	(1) Presidency Magistrates. *(2) Magistrates of the first class.* *(3) Magistrates of the second class.* *(4) Magistrates of the third class.* *(5) Special Judicial Magistrates.*
	II. Executive Magistrates.
	(1) District Magistrates. *(2) Sub-divisional Magistrates.* *(3) Taluka Magistrates.* *(4) Presidency Magistrates specially empowered by the State Government.* *(5) Special Executive Magistrates.*

Existing section.	Section as it will read after amendment.
Sessions divisions and districts. 7. (*1*) Every State (excluding the presidency-town) shall be a sessions division, or shall consist of sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district, or consist of districts.	7. (*1*) *The State of Bombay shall consist of sessions divisions : and every sessions division shall for the purposes of this Code, be a district or consist of districts.* *Sessions divisions and districts.*
Power to alter divisions and districts. (*2*) The State Governments may alter the limits or the number of such divisions and districts.	(*2*) *For the purposes of this Code, Greater Bombay shall be a sessions division and be deemed to be a district.*
Existing divisions and districts maintained till altered. (*3*) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.	(*3*) *The State Government may alter the limits or the number of such divisions and districts.*
Presidency-towns to be deemed districts. (*4*) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.	(*4*) *The sessions divisions and districts existing when the Bombay Separation of Judicial and Executive Functions Act, 1951, comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.* *Bom. of 1951.*
Power to divide districts into sub-divisions. 8. (*1*) The State Government may divide any district outside the Presidency-towns into sub-divisions, or make any portion of any such district a sub-division, and may alter the limits of any sub-division.	8. (*1*) The State Government may divide any district *outside Greater Bombay* into sub-divisions, or make any portion of any such district a sub-division, and may alter the limits of any sub-division.
Court of Session. 9. (*1*) The State Government shall establish a Court of Session for every sessions division, and appoint a judge of such court.	9. (*1*) The State Government shall establish a Court of Session for every sessions division, and *in consultation with the High Court* appoint a judge of such court.
(*2*) The State Government may by general or special order in the Official Gazette direct at what place or places the Court of Session shall hold its sitting ; but, until such order is made the Courts of Session shall hold their sittings, as heretofore.	(*2*) No change.
(*3*) The State Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.	(*3*) The State Government may also *in consultation with the High Court* appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction, in one or more such Courts.

Existing section.	Section as it will read after amendment.
(*4*) A Sessions Judge of one sessions division may be appointed by the State Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the State Government may direct.	(*4*) A Sessions Judge of one sessions division may *in consultation with the High Court* be appointed by the State Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the State Government may direct.
District Magistrate. 10. (*1*) In every district outside the presidency-towns the State Government shall appoint a Magistrate of the first las who shall be called the District Magi trate.	10. (*1*) In every district *outside Greater Bombay* the State Government shall appoint a *** District Magistrate.
(*2*) The Sta e Government may appoint any Magistrate of the first class to be an Additional District Magistrate and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force as he State Government may direct.	(*2*) The State Government may appoint *** an Additional District Magistrate and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force as the State Government may direct.
(*3*) For the purposes of section 192, sub-section (*1*), section 407, sub-section (*2*) and section 528, sub-sections (*2*) and (*3*), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.	(*3*) This sub-section is deleted.
Subordinate Magistrates. 12. (*1*) The State Government may appoint as many persons as it thinks fit besides the District Magistrate to be Magistrates of the first, second, or third class in any district outside the presidency-towns; and the State Government or the District Magistrate subject to the control of the State Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.	12. (*1*) The State Government may *Judicial Magistrates.* appoint as many persons as it thinks fit *** to be Magistrates of the first, second, or third class in any District *outside Greater Bombay*; and*** may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.
... ...	(*1-A*) *The power of appointment of Magistrates under sub-section (1) shall, on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification.*

Existing section.	Section as it will read after amendment.
Power to put Magistrate in charge of sub-division. 13. (*1*) The State Government may place any Magistrate of the first or second class in charge of a sub-division and relieve him of the charge as occasion requires.	13. (*1*) The State Government may place any Magistrate * *in charge of a sub-division *or a taluka* and relieve him of the charge as occasion requires. Power to put Magistrate in charge of sub-division *or taluka*.
(*2*) Such Magistrates shall be called Sub-divisional Magistrates.	(*2*) Such Magistrates shall be called Sub-divisional Magistrates *or Taluka Magistrates, as the case may be.*
Special Magistrates. 14. (*1*) The State Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area outside the presidency-towns.	14. (*1*) *The State Government may, in consultation with the High Court, confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may in consultation with the High Court by general or special order direct.* Special Magistrates.
(*2*) Such Magistrates shall be called Special Magistrates and shall be appointed for such term as the State Government may, by general or special order, direct.	(*2*) *The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may by general or special order direct:* *Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assistant Superintendent and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.*
(*3*) The State Government may delegate with such limitations as it thinks fit, to any officer under its control the power conferred by sub-section (*1*).	(*3*) *The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (2).*

Existing section.	Section as it will read after amendment.
(4) No powers shall be conferred under this section on any police officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.	
Benches of Magistrates. 15. (*1*) The State Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a bench and may by order invest such bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases or such classes of cases only, and within such local limits as the State Government thinks fit.	15. (*1*) *The State Government may, in consultation with the High Court, direct any two or more Judicial Magistrates in any place outside Greater Bombay* to sit together as a bench and may by order invest such bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits as the State Government thinks fit.
Power to frame rules for guidance of Benches. 16. The State Government may, or, subject to the control of the State Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :— (*a*) the classes of cases to be tried ; (*b*) the times and places of sitting ; (*c*) the constitution of the Bench for conducting trials ; (*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.	16. *The High Court, subject to the sanction of the State Government* may from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :— (*a*) the classes of cases to be tried ; (*b*) the times and places of sitting ; (*c*) the constitution of the Bench for conducting trials ; (*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.
Subordination of Magistrates and Benches to District Magistrate. 17. (*1*) All Magistrates appointed under sections 12, 13 and 14 and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and	17. (*1*) *All Judicial Magistrates* appointed under sections 12* and 14 and all Benches constituted under section 15, shall be subordinate to the *Sessions Judge*, and he may, from time to time make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches.* Subordination of *Judicial Magistrates* and Benches to *Sessions Judge*.

Existing section.	Section as it will read after amendment.
to Sub-divisional Magistrate. (2) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.	(2) This sub-section is deleted.
(3) and (4)	(3) and (4) No change.
(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.	(5) This sub-section is deleted.
	17A. All Executive Magistrates appointed under sections 13 and 14 shall be subordinate to the District Magistrate. Subordination of Executive Magistrates to District Magistrate.
	17B. Courts of Session and Courts of Magistrates (including Courts of Presidency Magistrates) shall be Criminal Courts inferior to the High Court and Courts of Magistrates outside Greater Bombay shall be Criminal Courts inferior to the Court of Session. Inferior Criminal Courts.
Appointment of Presidency Magistrates. 18.	*18. (5) The power of appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of appointment of other Presidency Magistrates shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification.*
Jurisdiction in the case of juveniles. 29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the State Government to exercise the	29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by * * * a Chief Presidency Magistrate, or *by any Judicial Magistrate specially empowered by the State Government in consultation with the High Court* to

Existing section.	Section as it will read after amendment.
powers conferred by section 8, sub-section (*1*), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.	exercise the powers conferred by section 8, sub-section (*1*), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.
VIII of 1897.	VIII of 1897.
Ordinary powers of Magistrates. 36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."	36. All *Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates*, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."
Additional powers conferrable on Magistrates. 37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the State Government or the District Magistrate, as the case may be, with any powers specified in the fourth Schedule, as powers with which he may be invested by the State Government or the District Magistrate.	37. *In addition to his ordinary powers, the State Government may invest any Magistrate with the powers as specified in the fourth Schedule:* *Additional powers conferrable on Magistrates;* *Provided that in the case of Judicial Magistrates such powers shall be conferred in consultation with the High Court:* *Provided further that the State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the fourth Schedule.*
Control of District Magistrate's investing power. 38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the State Government.	38. The power *delegated to* the District Magistrate by section 37 shall be exercised subject to the control of the State Government.
	38*A*. *Whenever under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution any judicial powers are to be conferred on a Sessions Judge, an Additional or Assistant Sessions Judge or a Judicial Magistrate or any such Magistrate is to be specially empowered* *Powers on Judicial Magistrates to be conferred in consultation with the High Court.*

Existing section.	Section as it will read after amendment.
	to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may not expressly provide for such consultation.
	Explanation.—For the purposes of this section, the question whether any powers are judicial shall be decided by the State Government in consultation with the High Court and such decision shall be final.
Powers may be cancelled. 41. (*1*) The State Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.	41. (*1*) The State Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it :
	Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court.
Refusal to give name and residence. 57. (*1*) When any person, who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence, refuses on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.	57. (*1*) No change.
(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before a Magistrate if so required :	(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear *before a Magistrate having jurisdiction if so required :*
Provided that, if such person is not resident in the States, the bond shall be secured by a surety or sureties resident in the States.	Provided that, if such person is not resident in the States, the bond shall be secured by a surety or sureties resident in the States.
Discharge of person apprehended. 63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.	63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the *special order of a Magistrate having jurisdiction.*

	Existing section.	Section as it will read after amendment.
Warrant may be directed to landholders, etc.	78. (*1*) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.	78. (*1*) A District Magistrate or Sub-divisional Magistrate *or Magistrate of the first class* may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.
Attachment of property of person absconding.	88. (*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made : Provided that if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.	88. (*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made : Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate * * * subordinate to him.
Summons to produce document or other thing.	94. (*1*) Whenever any Court, or in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.	94. (*1*) Whenever any Court, or in any place *beyond the limits of Greater Bombay*, any officer in charge of a police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.
Security for keeping the peace on conviction. XLV of 1860.	106. (*1*) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a	106. (*1*) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a

Existing section.	Section as it will read after amendment.
Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class,	High Court, a Court of Session or the Court of a Presidency Magistrate * * * or a Magistrate of the first class,
and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.	and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.
Security for keeping the peace in other cases. 107. (*1*) Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.	107. (*1*) Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or Sub-divisional Magistrate or a Taluka Magistrate specially empowered by the State Government in this behalf* is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.
Security for good behaviour from persons disseminating seditious matter. 108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the State Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in any wise abets the dissemination of,—	108. Whenever a Chief Presidency or District Magistrate, *or Sub-divisional Magistrate or a Presidency Magistrate* specially empowered by the State Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in any wise abets the dissemination of,—
(*a*) any seditious matter, that is to say, any matter, the publication	(*a*) any seditious matter, that is to say, any matter the publication

Existing section.	Section as it will read after amendment.
of which is punishable under section 124-A of the Indian Penal Code, or	of which is punishable under section 124-A of the Indian Penal Code, or
XLV of 1860.	XLV of 1860.
(*b*) any matter the publication of which is punishable under section 153-A of the Indian Penal Code, or	(*b*) any matter the publication of which is punishable under section 153-A of the Indian Penal Code, or
(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,	(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,
such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.	such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.
No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.	No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.
XXV of 1867.	XXV of 1867.
Security for good behaviour from vagrants and suspected persons. 109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—	109. Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate* receives information—
(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or	(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or
(*b*) that there is within such limits a person who has no ostensible	(*b*) that there is within such limits a person who has no ostensible

Existing section.	Section as it will read after amendment.
means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.	means of subsistence, or who cannot give a satisfactory account, of himself, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.
Security for good behaviour from habitual offenders. 110. Whenever a Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the State Government receives information that any person within the local limits of his jurisdiction-	110. Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate* receives information that any person within the local limits of his jurisdiction-
(*a*) is by habit a robber, housebreaker, thief, or forger, or	(*a*) is by habit a robber, housebreaker, thief or forger, or
(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or	(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or
(*c*) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or	(*c*) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or
(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489-A, section 489-B, section 489-C or section 489-D of that Code, or	(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code or under section 489-A, section 489-B, section 489-C, or section 489-D of that Code, or
XLV of 1860.	XLV of 1860.
(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or	(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or
(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,	(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

Existing section.	Section as it will read after amendment.
Such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.	Such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.
Discharge of sureties. 126. (*1*) Any surety for the peaceful conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.	126. (*1*) Any surety for the peaceful conduct or good behaviour of another person may at any time apply to *the Court by which an order was made to give security* to cancel any bond executed under this Chapter within the local limits of his jurisdiction.
(*2*) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound, to appear or to be brought before him.	*(2) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it.*
Conditional order for removal of nuisance. 133. (*1*) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,	133. (*1*) Whenever a *Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate* considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,
that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or	that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or
that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or	that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or
that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or	that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

Existing section.	Section as it will read after amendment.
that any building, tent or structure or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or	that any building, tent or structure or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or
that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or,	that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or,
that any dangerous animal should be destroyed, confined or otherwise disposed of,	that any dangerous animal should be destroyed, confined or otherwise disposed of,
such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation or owning or possessing such animal or tree, within a time to be fixed in the order,	such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,
to remove such obstruction or nuisance ; or	to remove such obstruction or nuisance ; or
to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or	to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or
to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed ; or	to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or
to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure ; or	to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure ; or
to remove or support such tree ; or	to remove or support such tree ; or
to alter the disposal of such substance ; or	to alter the disposal of such substance ; or
to fence such tank, well or excavation, as the case may be ; or	to fence such tank, well or excavation, as the case may be ; or
to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ;	to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ;
or, if he objects to do,	or, if he objects so to do,

Existing section.	Section as it will read after amendment.
to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.	*to appear before himself or some other Executive Magistrate*, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.
Magistrate may prohibit repetition or continuance of public nuisance. 143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.	143. *A Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate or any Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf* may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.
LV of 860.	XLV of 1860.
Power to issue order absolute at once in urgent cases of nuisance or apprehended danger. 144. (*1*) In cases where, in the opinion of the District Magistrate, a Chief Presidency Magistrate, Sub-divisional Magistrate, or of any other Magistrate (not being a Magistrate of the third class) specially empowered by the State Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable,	144. (*1*) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, Sub-divisional Magistrate *or of any other Executive Magistrate* specially empowered by the State Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable,
such Magistrate may, by a written order stating the material fact of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life health or safety, or a disturbance of the public tranquillity or a riot, or an affray.	such Magistrate may, by a written order stating the material fact of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent or tends to prevent, obstruction, annoyance, or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed or danger to human life, health or safety, or a disturbance of public tranquillity, or a riot, or an affray.
Procedure where dispute concerning land, etc., is likely to cause breach of peace. 145. (*1*) Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the	145. (*1*) Whenever a District Magistrate, Sub-divisional Magistrate *or any other Executive Magistrate specially empowered by the State Government in this behalf* is satisfied from a police

Existing section.	Section as it will read after amendment.
peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.	report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.
Disputes concerning rights of use of immovable property, etc. 147. (*1*) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from a police report or other information that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (*2*) (whether such rights be claimed as an easement or otherwise), within the local limits of his jurisdiction he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.	147. (*1*) Whenever any District Magistrate, Sub-divisional Magistrate *or any other Executive Magistrate specially empowered by the State Government in this behalf*, is satisfied, from a police report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145 sub-section (*2*) (whether such rights be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.
Power to record statements and confessions. 164. (*1*) Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government may, if he is not a police officer, record any statement or confession made to him in the course of an	164. (*1*) *Any Presidency Magistrate, any District Magistrate, any Sub-divisional Magistrate, any Magistrate of the first class or any other Magistrate specially empowered by the State Government in this behalf* may, if he is not a police officer, record any,

Existing section.	Section as it will read after amendment.
investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.	statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.
Procedure when investigation cannot be completed in twenty-four hours. 167. (*1*) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well founded, the officer in charge of the police-station or the police-officer making the investigation if he is not below the rank of Sub-Inspector shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.	167. (*1*) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61 and there are grounds for believing that the accusation or information is well founded, the officer in charge of the police-station or the police-officer making the investigation if he is not below the rank of Sub-Inspector shall forthwith transmit to the *nearest Judicial Magistrate* a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.
(*2*) The Magistrate to whom an accused person is forwarded under this section may whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:	(*2*) No change.
Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the State Government shall authorise detention in custody of the police.	
(*3*) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.	(*3*) No change.

Existing section.	Section as it will read after amendment.
(4) If such order is given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of the order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.	(4) *Any Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge.*
Case to be sent to Magistrate when evidence is sufficient. 170. (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.	170. (1) No change.
(2) When the officer in charge of a police station forwards an accused person to a Magistrate or take security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.	(2) No change.
(3) If the Court of the District Magistrate or Sub-divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.	(3) *This sub-section is deleted.*

Existing section.	Section as it will read after amendment.
Police to inquire and report on suicide, etc. 174. (5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and any Magistrate especially empowered in this behalf by the State Government or the District Magistrate.	174. (5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate *or any Executive Magistrate* especially empowered in this behalf by the State Government or the District Magistrate.
Power to issue summons or warrant for offence committed beyond local jurisdiction. 186. (1) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without the States) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in the States, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.	186. (1) When a Presidency Magistrate *or a Magistrate of the first class specially empowered in this behalf, by the State Government in consultation with the High Court*, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without the States) an offence which cannot, under the provi ions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in the States, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.
Procedure where warrant issued by subordinate Magistrate. 187. (1) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.	187. (1) If the person has been arrested under a warrant issued under section 186, *the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge* to whom he is subordinate unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

Existing section.	Section as it will read after amendment.
Cognizance of offences by Magistrates. 190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—	190. (*1*) Except as hereinafter provided, any Presidency Magistrate * * * and *any Judicial* Magistrate specially empowered in this behalf *by the State Government in consultation with the High Court* may take cognizance of any offence—
(*a*) upon receiving a complaint of facts which constitute such offence;	(*a*) upon receving a complaint of facts which constitute such offence;
(*b*) upon a report in writing of such facts made by any police-officer;	(*b*) upon a report in writing of such facts made by any police-officer;
(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.	(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.
(*2*) The State Government, or the District Magistrate subject to the general or special orders of the State Government, may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.	(*2*) The State Government * * * may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.
(*3*) The State Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.	(*3*) The State Government may *in consultation with the High Court* empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.
Transfer of cases by Magistrates. 192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him.	192. (*1*) Any Chief Presidency Magistrate * * * may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.
(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.	(*2*) *A Sessions Judge* may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate *in the sessions division* who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

	Existing section.	Section as it will read after amendment.
Cognizance of offences by Courts of Session.	193. (2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the State Government by general or special order may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.	193. (2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the State Government *in consultation with the High Court* by general or special order may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.
Power to commit for trial.	206. (1) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.	206. (1) Any Presidency Magistrate* * * or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government *in consultation with the High Court*, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.
Power to stop proceeding when no complainant.	249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.	249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, *or any other Judicial Magistrate specially empowered in this behalf by the State Government in consultation with the High Court*, may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.
Power to try summarily.	260. (1) Notwithstanding anything contained in this Code,—	260. (1) Notwithstanding anything contained in this Code,—
	(a) The District Magistrate,	(a) *deleted*.
	(b) any Magistrate of the first class specially empowered in this behalf by the State Government, and	(b) any Magistrate of the first class specially empowered in this behalf by the State Government *in consultation with the High Court*, and
	(c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the State Government,	(c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the State Government *in consultation with the High Court*,

Existing section.	Section as it will read after amendment.
may, if he or they think fit, try in a summary way all or any of the following offences :—	may, if he or they think fit, try in a summary way all or any of the following offences :—
(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;	(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;
(*b*) to (*l*)	(*b*) to (*l*)
(*m*) offences under section 20 of the Cattle Trespass Act, 1871 ;	(*m*) offences under section 20 of the Cattle Trespass Act, 1871 ;
Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.	Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.
Power to invest Bench of Magistrates invested with less power. 261. The State Government may confer on the Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—	261. The State Government may *in consultation with the High Court* confer on the Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—
(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, 447 and 504 ;	(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, 447 and 504 ;
(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month with or without fine ;	(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month with or without fine ;
(*c*) abetment of any of the foregoing offences ;	(*c*) abetment of any of the foregoing offences ;
(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.	(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.
Bench may be authorised to employ clerk. 265. (*2*) The State Government may authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.	265. (*2*) The State Government may *in consultation with the High Court* authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

Existing section.	Section as it will read after amendment.
State Government may order trials before Court of Session to be by jury. 269. (*1*) The State Government may, by order in the *Official Gazette*, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may revoke or alter such order.	269. (*1*) The State Government may, *in consultation with the High Court* by order in the *Official Gazette*, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may revoke or alter such order.
Tender of pardon to accomplice. 337. (*1*) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:	337. (*1*) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216-A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:
Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.	Provided that, where the offence is under inquiry or trial, no Magistrate of the first class * * shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the *sanction of the Sessions Judge* has been obtained to the exercise thereof.

	Existing section.	Section as it will read after amendment.
Procedure of State Magistrate in cases which he cannot dispose of.	346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.	346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district *outside greater Bombay*, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate *or Sessions Judge, as the case may be*, directs.
Procedure when Magistrate cannot pass sentence sufficiently severe.	349. (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.	349. (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, *to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court.*
	(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.	(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed ~~under~~ sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to *the Magistrate empowered under sub-section* (*1*).
Conviction or commitment on evidence, partly recorded by one Magistrate and partly by another.	350. (*1*) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by	350. (*1*) No change.

Existing section.	Section as it will read after amendment.
himself; or he may re-summon the witnesses and recommence the inquiry or trial:	
Provided as follows :—	Provided as follows :—
(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;	(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;
(*b*) the High Court, or, in cases tried by Magistrates sub-ordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.	(*b*) the High Court, or, in cases tried by Magistrates, the *Court of Session* may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court * * is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.
Procedure in cases submitted by Magistrate not empowered to act under section 562. 380. Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.	380. Where proceedings are submitted to a Magistrate of the first class * * * as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.
Appeal from sentence of Magistrate of the second or third class. 407. (*1*) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.	407. (*1*) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a * Magistrate of the second class, may appeal to the *Court of Session*.
Transfer of appeals to first class Magistrate. (*2*) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be	(*2*) The *Sessions Judge* may direct that any appeal under this section, or any class of such appeals, shall be heard

Existing section.	Section as it will read after amendment.
heard by any Magistrate of the first class subordinate to him and empowered by the State Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.	by any Magistrate of the first class subordinate to him and empowered by the State Government *in consultation with the High Court* to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the *Sessions Judge* may be transferred to such subordinate Magistrate. The *Sessions Judge* may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.
Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class. 408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the first class, may appeal to the Court of Session:—	408. Any person convicted on a trial held by an Assistant Sessions Judge, *or a* Magistrate of the first class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the first class, may appeal to the Court of Session :
Provided as follows :—	Provided as follows :—
* * * *	
(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal of all or any of the accused convicted at such trial shall lie to the High Court ;	(No change).
(*c*) when any person is convicted by a Magistrate of an offence under section 124-A of the Indian Penal Code, the appeal shall lie to the High Court.	
Appeal in petty cases. 413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a High Court passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or in which a Court of Session or District	413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a High Court passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or in which a

Existing section.	Section as it will read after amendment.
Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only.	Court of Session or a Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only.
Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.	*Explanation.*—(No change).
Appellate Court may take further evidence or direct it to be taken. 428. (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.	428. (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken *by a Judicial Magistrate*, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.
Power to call for records of inferior Courts. 435. (*1*) The High Court or any Sessions Judge or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.	435. (*1*) The High Court or any Sessions Judge** may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the exam nation of the record.
Explanation.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437.	*Explanation.*—This has been deleted.
(*2*) If any Sub-divisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such	(*2*) *The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the*

Existing section.	Section as it will read after amendment.
remarks thereon as he thinks fit, to the District Magistrate.	*purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement that he be released on bail on his own bond pending the examination of the record.*
(3)	(3) *If any Sub-divisional Magistrate acting under sub-section (2) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate.*
(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.	(4) *The High Court may call for and examine the record of any proceeding under section 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate.*
Power to order inquiry. 436. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any person accused of an offence who has been discharged :	436. (1) On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct *the Judicial Magistrate to make*, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any person accused of an offence who has been discharged :
Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged, unless such person has had an opportunity of showing cause why such direction should not be made.	Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged, unless such person has had an opportunity of showing cause why such direction should not be made.
	(2) *On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-divisional Magistrate or any other Executive Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct*

Existing section.	Section as it will read after amendment.
	any subordinate Magistrate to make, further inquiry into any proceedings; *Provided that no District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made.*
Power to order commitment. 437. When on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged:	437. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge* * considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge* * may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge* * improperly discharged:
Provided as follows:— (*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made; (*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.	Provided as follows:— (*a*) that the accused has had an opportunity of showing cause to such Judge* * why the commitment should not be made; (*b*) that, if such Judge* * thinks that the evidence shows that some other offence has been committed by the accused, such Judge* * may direct the inferior Court to inquire into such offence.
Report to High Court. 438. (*1*) The Sessions Judge other than the Sessions Judge of the Court of the Session for Greater Bombay or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may	438. (*1*) The Sessions Judge other than the Sessions Judge of the Court of Session for Greater Bombay* * may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sen-

Existing section.	Section as it will read after amendment.
order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.	tence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.
Procedure of Civil or Revenue Court in such cases. 479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.	479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate * * or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.
Order of maintenance of wives and children. 488. (*1*) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding one hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.	488. (*1*) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, * *a Presidency Magistrate *or a Magistrate* of the first class, may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding one hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.
Power of State Subordinate Magistrate to apply for issue of commission. 506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary, for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate, shall apply to the District Magistrate, stating the	506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary, for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, *such Magistrate, if he is a Judicial Magistrate shall apply to the*

Existing section.	Section as it will read after amendment.
reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.	*Sessions Judge and if he is an Executive Magistrate shall apply to the District Magistrate*, stating the reasons for the application; *and the Sessions Judge or the District Magistrate, as the case may be*, may either issue a commission in the manner hereinbefore provided or reject the application.
Appeal from and revision of orders under section 514 515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.	*Appeal from and revision of orders under section 514.* 515. *All orders passed under section 514 by an Executive Magistrate other than the District Magistrate shall be appealable to the District Magistrate and by a Judicial Magistrate other than by a Presidency Magistrate to the Sessions Judge and if no appeal is made against such orders they may be revised in the case of the orders passed by an Executive Magistrate, by the District Magistrate and in the case of the orders passed by a Judicial Magistrate by the Sessions Judge.*
Procedure where no claimant appears within six months. 524. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the State Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first class empowered by the State Government in this behalf.	524. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the State Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or *of an Executive Magistrate* empowered by the State Government in this behalf.
District or Sub-divisional Magistrate may withdraw or refer cases. 528. (2) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.	528. (2) Any Chief Presidency Magistrate *or Sessions Judge* may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same. *Chief Presidency Magistrate or Sessions Judge may withdraw or refer cases.*
Provision for powers of Judges and Magistrates being exercised by their successors in office. 559 (2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes,	559. (2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency town, and *outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of*

Existing section.	Section as it will read after amendment.
of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.	*Executive Magistrates*, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.
Special provisions with respect of offences of rape by a husband. 561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall	561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or *a Magistrate of the first class* shall
(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or ;	(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or
(*b*) commit the man for trial for the offence.	(*b*) commit the man for trial for the offence.
(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (*1*) no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in the investigation.	(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or *a Magistrate of the first class* deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (*1*), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.
Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment. 562. (*1*) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be	562. (*1*) No change.

Existing section.	Section as it will read after amendment.
released on his entering into a bond with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :	
Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not especially empowered by the State Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.	Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not especially empowered by the State Government in this behalf and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class* *, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.
Order for notifying address of previously convicted offender. 565. (1) When any person having been convicted—	565. (1) When any person having been convicted—
(a) by a Court in the States of an offence punishable under section 215, Section 489-A, section 489-B, section 489-C, or section 489-D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or	(a) by a Court in the States of an offence punishable under section 215, section 489-A, section 489-B, section 489-C, or section 489-D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or
(b) before the 26th day of January 1950, by a court or tribunal in any Indian state acting under the general or special authority of the Central Government or of the Crown Representative of any offence which would, if committed in the States have been punishable under any of the aforesaid sections, or Chapters of the Indian Penal Code with like imprisonment for a like term, is again convicted	(b) before the 26th day of January 1950, by a court or tribunal in any Indian state acting under the general or special authority of the Central Government or of the Crown Representative of any offence which would, if committed in the States have been punishable under any of the aforesaid sections, or Chapters of the Indian Penal Code with like imprisonment for a like term is again convicted of any

Existing section.	Section as it will read after amendment.
of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.	offence punishable under any of those sections or Chapters with inprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate**, or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

Note.—*Deletions made by the Select Committee are shown in square brackets and additions are shown in italics.*

L. A. BILL No. III OF 1951.

A Bill to provide for the separation of judicial and executive functions in the State of Bombay.

(As amended by the Select Committee.)

WHEREAS it is expedient to provide for the separation of the performance of judicial and executive functions by officers in the State of Bombay; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Bombay Separation of Judicial and Executive Functions Act, 1951. Short title, extent and commencement.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

Amendments to enactments.

2. The Central Acts specified in Parts I and II of the Schedule appended to this Act (hereinafter called the Schedule) in their application to the State of Bombay and the Bombay Acts specified in Part III of the Schedule are hereby amended to the extent mentioned in the fourth column of the Schedule.

Amendments not to render invalid notifications, orders, etc., issued before commencement of Act.

3. The provisions of this Act which amend any Act specified in the Schedule so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, by-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act; and any such notification, order, commitment, attachment, by-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such a case.

Saving.

4. Nothing in this Act shall be deemed to affect—

(*a*) the validity, invalidity, effect or consequence of anything done or suffered to be done in an area before the date on which the provisions of this Act come into force in such area;

(*b*) any right, privilege, obligation or liability already acquired, accrued or incurred before such date;

(*c*) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment;

(*e*) any legal proceeding pending in any Court or before any officer on the aforesaid date or anything done or suffered to be done in the course of such proceeding; and any such proceeding or any appeal or revisional proceedings arising out of such proceeding shall be instituted, continued or disposed of, as the case may be, as if this Act had not come into force.

[SCHEDULE

(*See* section 2.)

PART I.—THE CODE OF CRIMINAL PROCEDURE, 1898.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898.	1. After section 6, the following shall be inserted, namely :—
			"*A-1. Classes of Magistrates.*
		Classes of Magistrates.	6-A. There shall be the following classes of Magistrates, namely :—
			I. Judicial Magistrates.
			(1) Magistrates of the first class. (2) Magistrates of the second class. (3) Magistrates of the third class. (4) Special Judicial Magistrates.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*continued.*	*II. Executive Magistrates.* (1) District Magistrates. (2) Sub-Divisional Magistrates. (3) Taluka Magistrates. (4) Special Executive Magistrates." 2. In section 9,— (i) in sub-section (*1*), after the words "sessions division, and" the words "in consultation with the High Court" shall be inserted; (ii) in sub-section (*3*), after the words "may also" the words "in consultation with the High Court" shall be inserted; (iii) in sub-section (*4*), after the words "sessions division may" the words "in consultation with the High Court" shall be inserted. 3. In section 10,— (i) in sub-section (*1*), the words "Magistrate of the first class, who shall be called the" shall be deleted; (ii) in sub-section (*2*), the words "any Magistrate of the first class to be" shall be deleted; (iii) sub-section (*3*) shall be deleted. 4. In section 12,— (i) in sub-section (*1*), the words "besides the District Magistrate" and the words "the State Government or the District Magistrate, subject to the control of the State Government" shall be deleted; (ii) after sub-section (*1*), the following sub-section shall be inserted, namely:— "(*1-A*) The power of appointment of Magistrates under sub-section (*1*) shall, on the issue of a public notification under article 237 of the Constitution be exercised subject to the terms of the said notification." 5. In section 13,— (i) in sub-section (*1*), the words "of the first or second class" shall be deleted and after the words "sub-division" the words "or a taluka" shall be inserted; (ii) in sub-section (*2*), after the words "Sub-divisional Magistrates" the words "or Taluka Magistrates, as the case may be" shall be added; (iii) in the marginal note to the said section, the words "or taluka" shall be added. 6. In section 14,— (i) in sub-section (*1*), after the words "outside the presidency towns" the following words shall be added, namely:— "The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions."; (ii) in sub-section (*2*), for the words "Special Magistrates," the words "Special Judicial or Executive Magistrates, as the case may be," shall be substituted:

Year.	No.	Short title.	Extent of amendment.
1	2	3	4.
1898	V	Code of Criminal Procedure, 1898—*continued.*	7. In section 16, for the words "The State Government may, or, subject to the control of the State Government, the District Magistrate" the words "The High Court, subject to the sanction of the State Government" shall be substituted. 8. In section 17,— (i) in sub-section (*1*),— (*a*) for the words "All Magistrates" the words "All Judicial Magistrates" and for the words "District Magistrate" the words "Sessions Judge" shall be substituted; (*b*) the figures ", 13" shall be deleted; (*c*) the word "and" at the end shall be deleted; (ii) sub-section (*2*) and sub-section (*5*) shall be deleted; (iii) in the marginal note to the said section, for the word "Magistrates" the words "Judicial Magistrates" and for the words "District Magistrate" the words "Sessions Judge" shall be substituted. 9. After section 17, the following new section shall be inserted, namely :— Subordination of Executive Magistrates to District Magistrate. "17A. All Executive Magistrates appointed under sections 13 and 14 shall be subordinate to the District Magistrate." 10. In section 18, after sub-section (*4*), the following sub-section shall be added, namely :— "(*5*) The power of the appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of the appointment of other Presidency Magistrates shall on the issue of a public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification." 11. In section 29B, the words "a District Magistrate or" shall be deleted. 12. In section 36, for the words "District Magistrates, Sub-Divisional Magistrates and Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates" shall be substituted. 13. For section 37, the following shall be substituted, namely :— Additional powers conferrable on Magistrates. "37. In addition to his ordinary powers, the State Government may invest any Magistrate with any powers specified in the fourth Schedule: Provided that in the case of Judicial Magistrates such powers shall be conferred in consultation with the High Court:

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*continued.*	Provided further that the State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the said powers." 14. After section 37 so substituted, the following new section shall be inserted, namely:— "37A. All Special Judicial Magistrates and Special Executive Magistrates shall have such powers as are conferred upon them by the High Court or the State Government, as the case may be." Powers of Special Magistrates. 15. In section 38, for the words "conferred on" the words "delegated to" shall be substituted. 16. In section 78, in sub-section (*1*), after the words "or Sub-divisional Magistrate" the words "or a Magistrate of the first class" shall be inserted. 17. In section 88, in sub-section (*6C*), the words beginning with the words "of the first" and ending with the words "may be" shall be deleted. 18. In section 100, in sub-section (*1*), the words ", a District Magistrate, a Sub-divisional Magistrate" shall be deleted. 19. In section 108, for the words "in this behalf", where they occur for the first time, the words "in this behalf, in consultation with the High Court" shall be substituted. 20. In section 110, after the words "State Government" the words "in consultation with the High Court" shall be inserted. 21. In section 143, for the words "or the District Magistrate in this behalf" the words "in this behalf in consultation with the High Court in the case of a Judicial Magistrate and in any other case without such consultation, or any Taluka Magistrate empowered in this behalf by the District Magistrate" shall be substituted. 22. In section 144, in sub-section (*1*), for the words "State Government or" the words "State Government in consultation with the High Court or by" shall be substituted. 23. In section 164, in sub-section (*1*), after the words "State Government" the words "in consultation with the High Court" shall be inserted. 24. In section 167, in the proviso to sub-section (*2*), after the words "State Government" the words "in consultation with the High Court" shall be inserted. 25. In section 170, sub-section (*3*) shall be deleted. 26. In section 186, in sub-section (*1*), for the words beginning with the words ", a District Magistrate" and ending with the words "a Magistrate of the first

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*continued.*	class" the words "or a Magistrate of the first class specially empowered by the State Government in this behalf" shall be substituted.
			27. In section 187, in sub-section (*1*),— (i) for the words "or District Magistrate" the words "or a Magistrate of the first class" shall be substituted; (ii) for the words "District or Sub-divisional Magistrate" the words "Sessions Judge" shall be substituted.
			28. In section 190,— (i) in sub-section (*1*), (*a*) the words "District Magistrate or Sub-divisional Magistrate" shall be deleted; (*b*) for the words "any other" the word "any" shall be substituted; (*c*) after the words "in this behalf" the words "by the State Government in consultation with the High Court" shall be inserted; (ii) in sub-section (*2*), the words "or the District Magistrate subject to the general or special orders of the State Government" shall be deleted.
			29. In section 192,— (i) in sub-section (*1*), the words "District Magistrate or Sub-divisional Magistrate" shall be deleted; (ii) in sub-section (*2*),— (*a*) for the words "Any District Magistrate" the words "A Sessions Judge" shall be substituted; (*b*) for the words "in his district" the words "in the Sessions Division" shall be substituted.
			30. In section 206, in sub-section (*1*),— (i) the words "District Magistrate, Sub-divisional Magistrate" shall be deleted; (ii) after the words "State Government" the words "in consultation with the High Court" shall be inserted.
			31. In section 249, for the words "or with the previous sanction of the District Magistrate, any other Magistrate" the words "or any other Magistrate specially empowered in this behalf by the State Government" shall be substituted.
			32. In section 260, in sub-section (*1*),— (i) the clause "(*a*) the District Magistrates" shall be deleted; (ii) in clauses (*b*) and (*c*) after the words "State Government" the words "in consultation with the High Court" shall be inserted.
			33. In section 349,— (i) in sub-section (*1*), for the words "to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate" the words "to a Magistrate of the first class specially empowered by the State Government in this behalf" shall be substituted;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*continued.*	(ii) in sub-section (*1A*), for the words "the District Magistrate or Sub-divisional Magistrate" the words, brackets and figure "the Magistrate empowered under sub-section (*1*)" shall be substituted. 34. In section 350, in proviso (*b*) to sub-section (*1*), the words "subordinate to the District Magistrate" shall be deleted; for the words "the District Magistrate", where they occur for the second time, the words "the Court of Sessions" shall be substituted; and the words "or District Magistrate" shall be deleted. 35. In section 380, the words "or a Sub-divisional Magistrate" shall be deleted. 36. In section 407,— (i) in sub-section (*1*),— (*a*) the word "Sub-divisional" shall be deleted; (*b*) for the words "District Magistrate" the words "Court of Session" shall be substituted; (ii) in sub-section (*2*),— (*a*) for the words "District Magistrate", wherever they occur, the words "Sessions Judge" shall be substituted; (*b*) after the words "State Government", the words "in consultation with the High Court" shall be inserted. 37. In section 408, for the words ", a District Magistrate or other" the words "or a" shall be substituted. 38. In section 413, for the words "District Magistrate or other" the letter "a" shall be substituted. 39. In section 435,— (i) in the Explanation to sub-section (*1*), after the word "All" the word "Judicial" shall be inserted; (ii) after sub-section (*2*), the following sub-section shall be inserted, namely:— "(*3*) The High Court may call for and examine the record of any proceeding under section 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate." 40. In section 479, the words "District Magistrate" shall be deleted. 41. In section 488, in sub-section (*1*), the words ", the District Magistrate" and the words ", a Sub-divisional Magistrate" shall be deleted. 42. For section 515, the following shall be substituted, namely:— Appeal from, and revision of, orders under section 514. — "515. All orders passed under section 514 by any Executive Magistrate other than District Magistrate shall be appealable to the District Magistrate, or by any Judicial Magistrate other than a Presidency Magistrate to the Sessions Judge, and if no appeal is made against such orders they may be revised by the District Magistrate or the Sessions Judge, as the case may be."

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*continued.*	43. In section 524, in sub-section (*1*), after the words " in this behalf " the words " in consultation with the High Court " shall be added. 44. In section 528, in sub-section (*2*),— (i) for the words " District Magistrate or Sub-divisional Magistrate " the words " or Sessions Judge " shall be substituted ; (ii) in the marginal note to the said sub-section, for the words " District or Sub-Divisional Magistrate " the words " Chief Presidency Magistrate or Sessions Judge " shall be substituted. 45. In section 559, in sub-section (*2*), for the words " the District Magistrate outside such towns," the words " outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates," shall be substituted. 46. In section 561, for the words " District Magistrate ", wherever they occur, the words " a Magistrate of the first class " shall be substituted. 47. In section 562, in the proviso to sub-section (*1*)— (i) after the words " in this behalf " the words " in consultation with the High Court " shall be inserted ; (ii) the words " or Sub-divisional Magistrate " shall be deleted. 48. In section 565, in sub-section (*1*), the words " District Magistrate, Sub-divisional Magistrate " shall be deleted. 49. In Schedule II, in column 8,— (i) for the words " Any Magistrate ", wherever they occur, the words " Any Judicial Magistrate " shall be substituted ; (ii) in the entry relating to section 124A, the words " or District Magistrate " shall be deleted ; (iii) in the entry relating to section 376, for the words " District Magistrate " the words " Magistrate of the first class " shall be substituted. 50. In Schedule III,— (*a*) after Part III, the following shall be inserted, namely :— " *III-A-Ordinary powers of a Taluka Magistrate.* (*1*) Power to arrest or direct the arrest of, and to commit to custody a person committing an offence in his presence, section 64. (*2*) Power to arrest, or direct the arrest, in his presence of an offender, section 65. (*3*) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 85. (*4*) Power to require search to be made for letters and telegrams, section 95. (*5*) Power to issue search warrant, section 96. (*6*) Power to endorse a search warrant and order delivery of things found, section 99. (*7*) Power to command unlawful assembly to disperse, section 127.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—*concluded*.	(8) Power to use civil force to disperse unlawful assembly, section 128. (9) Power to require military force to be used to disperse unlawful assembly, section 130. (10) Power to authorise detention (not being detention in the custody of the police) of a person during a police-investigation, section 167. (11) Power to recover penalty on forfeited bond, section 514 and to require fresh security, section 514A. (12) Power to make order as to disposal of property, section 517. (13) Power to sell property of a suspected character, section 525." (b) in Part IV,— (i) for item (1), the following shall be substituted namely :— "(1) The ordinary powers of a Taluka Magistrate" (ii) after item (2), the following shall be inserted, namely :— "(2*a*) Power to issue search warrant otherwise than in course of an inquiry, section 98. (2*b*) Power to issue search warrant for discovery of persons wrongfully confined, section 100. (2*c*) Power to require security to keep the peace, section 107. (2*d*) Power to require security for good behaviour, section 109.". (iii) after item (3), the following shall be inserted, namely :— "(4) Power to discharge sureties, section 126A. (4*a*) Power to make orders as to local nuisances section 133." (iv) after item (6), the following shall be inserted namely :— "(6*a*) Power to make orders etc. in possession cases, sections 145, 146 and 147."; (v) after item (8), the following shall be inserted, namely :— "(8*a*) Power to record statements and confessions during a police investigation, section 164. (8*b*) Power to authorise detention of a person in the custody of the police during a police investigation, section 167."; (vi) after item (9), the following shall be inserted, namely :— "(10) Power to hold inquests, section 174."; (vii) items (12) to (16) (both inclusive) shall be deleted; (viii) item (19) shall be deleted ; (c) in Part V, items (1*a*), (7), (8), (10), (12), (13) and (14) shall be deleted. 51. In Schedule IV, in the second column, for the words "By the District Magistrate" wherever they occur the words "By the State Government" shall be substituted.

PART II—OTHER CENTRAL ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1889.	I.	The Metal Tokens Act, 1889	In section 5, in sub-section (2), the words "except a District Magistrate or Sub-Divisional Magistrate," shall be deleted.
1894.	IX	The Prisons Act, 1894.	In section 32,— (i) the words "of the District Magistrate or" shall be deleted; (ii) in the first proviso, the words "by the District Magistrate to any Magistrate of the first class and shall be deleted;
1897	VIII	The Reformatory Schools Act, 1897.	1. In section 8, in sub-section (2), the brackets, letter and words "(c) a District Magistrate," shall be deleted. 2. In section 9, in sub-section (1), for the words "the District Magistrate to whom he is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (2) of section 8" shall be substituted. 3. In section 10, for the words "District Magistrate" the words, brackets and figures "Magistrate specially empowered under sub-section (2) of section 8" shall be substituted. 4. In section 11, in sub-section (2), for the words "District Magistrate" the words "Magistrate specially empowered" shall be substituted. 5. In section 31,— (i) in sub-section (4), for the words "the District Magistrate to whom such Court is subordinate", the words, brackets and figures "the Magistrate specially empowered under sub-section (2) of section 8" shall be substituted; (ii) in sub-section (5), the word "District" shall be deleted.
1900	III	The Prisoners Act, 1900.	In section 37, for the words "District Magistrate" the words "Sessions Judge" shall be substituted.
1911	X	The Prevention of Seditious Meetings Act, 1911.	In section 8, the words "or Sub-divisional Magistrate" shall be deleted.
1917	I	The Inland Steam-vessels Act, 1917.	1. In section 33, in clause (b) of sub-section (1), the words "or the Court of any District Magistrate" shall be deleted. 2. In section 35, in sub-section (1), the words "or the Court of the District Magistrate," shall be deleted. 3. In section 38, in clause (b), the words "or the Court of the District Magistrate" shall be deleted and for the words "respectively by either Court" the words "by it"' shall be substituted.
1923	XIX	The Indian Official Secrets Act, 1923.	In section 13, in sub-section (1), the brackets and the words "which is inferior to that of a District" shall be deleted.
1927	XVI	The Indian Forest Act, 1927.	In section 67, the words "The District Magistrate or" shall be deleted.

PART III—BOMBAY ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VII	The Bombay District Police Act, 1867.	In section 34, for the words "a Magistrate of the first class" the words "the District Magistrate or any magistrate specially empowered in this behalf by the State Government" shall be substituted.
1867	VIII	The Bombay Village Police Act, 1867.	1. In section 1, the following paragraph shall be added, namely :— "The term 'Executive Magistrate' when used in this Act has the meaning assigned to it in the Code of Criminal Procedure, 1898".
		V of 1898.	
			2. In section 6, for the words "the Magistrate" where they occur for the second time, the words "any other executive Magistrate" shall be substituted.
			3. In section 8, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted.
			4. In sections 9 and 9A, for the words "any Magistrate of the first class" and "Any Magistrate of the first class" the words "the Magistrate of the District" and "The Magistrate of the District" shall, respectively, be substituted.
			5. In sections 19 and 21, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted.
1889	I	The Bombay Village Sanitation Act, 1889.	In section 15, in sub-section (*1*), for the words beginning with the words "or other" and ending with the words "in this behalf" the words "or any Magistrate of the first class specially empowered by the State Government in this behalf" shall be substituted.
1929	XVIII	The Bombay Borstal Schools Act, 1929.	1. In section 8, the words "a District Magistrate, a sub-divisional Magistrate" shall be deleted.
			2. In section 9, for the words "District Magistrate", wherever they occur, the words "Magistrate of the first class" shall be substituted.
1933	VI	The Bombay Village Panchayats Act, 1933.	1. In section 77,— (i) in sub-section (*1*), for the words "District Magistrate" the words "Sessions Court" shall be substituted ; (ii) in sub-section (2),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted ; (*b*) the words "or Magistrate" shall be deleted ; (iii) in sub-section (*3*),— (*a*) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted ; (*b*) the words "or Magistrate" shall be deleted. (iv) in the marginal note to the said section, for the words "District Magistrate" the words "Sessions Court" shall be substituted.
			2. In sections 78, 79, 87, 87A and 87B and in the marginal notes to sections 87, 87A and 87B, for the words "District Magistrate", wherever they occur, the words "Sessions Court" shall be substituted.
1938	XIX	The Bombay Probation of Offenders Act, 1938.	In section 3, sub-section (*1*), clauses (*c*) and (*d*) shall be deleted.

Year. 1	No. 2	Short title. 3	Extent of amendment. 4
1947	LI	The Bombay Habitual Offenders Restriction Act, 1947.	In section 13,— (i) in clause (i), for the words "by a Magistrate" the words "by an Executive Magistrate" shall be substituted; (ii) in clause (ii), after the words "made by" the words "a Judicial Magistrate or" shall be inserted.
1948	LXXI	The Bombay Children Act, 1948.	1. In section 8, clauses (*c*) and (*d*) shall be deleted. 2. In section 41, for the words "District Magistrate or Sub-Divisional Magistrate" the words "Sessions Judge" shall be substituted. 3. In section 80,— (i) for the words beginning with the words "the court shall submit" and ending with the words "it is subordinate" the words and figure "the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate" shall be substituted; (ii) in the marginal note to the said section, for the words "District Magistrate" the words "First Class Magistrate" shall be substituted. 4. In section 94, in sub-section (2) clause (*a*), for the words "District Magistrate" the words "Court of Session" shall be substituted.]

SCHEDULE.

(See section 2.)

PART I.—THE CODE OF CRIMINAL PROCEDURE, 1898.

Year.	*No.*	*Short title.*	*Extent of amendment.*
1	*2*	*3*	*4*
1898	*V*	*Code of Criminal Procedure, 1898.*	*1. For section 6, the following shall be substituted, namely :—* *"6. Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in the State of Bombay, namely :—* (*Classes of Criminal Courts.*) *I.—Courts of Session.* *II.—Courts of Magistrates."* *2. After section 6, the following shall be inserted, namely :—* *"A-1. Classes of Magistrates.* *6-A. There shall be the following classes of Magistrates, namely :—* (*Classes of Magistrates.*) *I. Judicial Magistrates.* *(1) Presidency Magistrates.* *(2) Magistrates of the first class.* *(3) Magistrates of the second class.* *(4) Magistrates of the third class.* *(5) Special Judicial Magistrates.*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	II. Executive Magistrates. (1) District Magistrates. (2) Sub-Divisional Magistrates. (3) Taluka Magistrates. (4) Presidency Magistrates specially empowered by the State Government. (5) Special Executive Magistrates." 3. For section 7, the following shall be substituted, namely :— "7. (1) The State of Bombay shall consist of sessions divisions; and every sessions division shall for the purposes of this Code, be a district or consist of districts. (Sessions divisions and districts.) (2) For the purposes of this Code, Greater Bombay shall be a sessions division and be deemed to be a district. (3) The State Government may alter the limits or the number of such divisions and districts. (4) The sessions divisions and districts existing when the Bombay Separation of Judicial and Executive Functions Act, 1951, comes into force shall be sessions divisions and districts respectively, unless and until they are so altered." Bom. of 1951. 4. In section 8, in sub-section (1), for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted. 5. In section 9,— (i) in sub-section (1), after the words "sessions division, and" the words "in consultation with the High Court" shall be inserted; (ii) in sub-section (3), after the words "may also" the words "in consultation with the High Court" shall be inserted; (iii) in sub-section (4), after the words "sessions division may" the words "in consultation with the High Court" shall be inserted.

Year.	*No.*	*Short title.*	*Extent of amendment.*
1	*2*	*3*	*4*
1898	*V*	*Code of Criminal Procedure, 1898*—contd.	*6. In section 10,—* *(i) in sub-section (1),—* *(a) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted;* *(b) the words "Magistrate of the first class, who shall be called the" shall be deleted;* *(ii) in sub-section (2), the words "any Magistrate of the first class to be" shall be deleted;* *(iii) sub-section (3) shall be deleted.* *7. In section 12,—* *(i) in sub-section (1),—* *(a) the words "besides the District Magistrate" shall be deleted;* *(b) for the words "outside the presidency-towns" the words "outside Greater Bombay" shall be substituted;* *(c) the words "the State Government or the District Magistrate, subject to the control of the State Government" shall be deleted;* *(ii) after sub-section (1), the following sub-section shall be inserted, namely:—* *"(1-A) The power of appointment of Magistrates under sub-section (1) shall on the issue of public notification under article 237 of the Constitution be exercised subject to the terms of the said notification."* *(iii) for the marginal notes to the said section, the following shall be substituted, namely:—* *"Judicial Magistrates."* *8. In section 13,—* *(i) in sub-section (1), the words "of the first or second class" shall be deleted and after the words "sub-division" the words "or a taluka" shall be inserted;*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	(ii) in sub-section (2), after the words "Sub-divisional Magistrates" the words "or Taluka Magistrates, as the case may be" shall be added; (iii) in the marginal note to the said section, the words "or taluka" shall be added.

9. For section 14, the following shall be substituted, namely:—

"14. (1) The State Government may, in consultation with the High Court, confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may in consultation with the High Court by general or special order direct. Special Magistrates.

(2) The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may by general or special order direct:

Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assistant Superintendent and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

(3) The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (2)."

10. In section 15, in sub-section (1), for the words "The State Government may direct any two or more Magistrates in any place outside the presidency-towns"

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	*the words "The State Government may, in consultation with the High Court, direct any two or more Judicial Magistrates in any place outside Greater Bombay" shall be substituted.* *11. In section 16, for the words "The State Government may, or, subject to the control of the State Government, the District Magistrate" the words "The High Court, subject to the sanction of the State Government" shall be substituted.* *12. In section 17,—* *(i) in sub-section (1),—* *(a) for the words "All Magistrates" the words "All Judicial Magistrates" shall be substituted;* *(b) the figures ", 13" shall be deleted;* *(c) for the words "District Magistrate" the words "Sessions Judge" shall be substituted;* *(d) the word "and" at the end shall be deleted;* *(ii) sub-section (2) and sub-section (5) shall be deleted;* *(iii) in the marginal note to the said section, for the word "Magistrates" the words "Judicial Magistrates" and for the words "District Magistrate" the words "Sessions Judge" shall be substituted.* *13. After section 17, the following sections shall be inserted, namely :—* *"17A. All Executive Magistrates appointed under sections 13 and 14 shall be subordinate to the District Magistrate.* *Subordination of Executive Magistrates to District Magistrate.* *17B. Courts of Session and Courts of Magistrates (including Courts of Presidency Magistrates) shall be Criminal Courts inferior to the High Court and Courts of Magistrates outside Greater Bombay shall be Criminal Courts inferior to the Court of Session."* *Inferior Criminal Courts.* *14. In section 18, after sub-section (4) the following sub-section shall be added, namely :—* *"(5) The power of appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of appointment of other*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	*Presidency Magistrates shall on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification."* *15. In section 29B,—* *(i) the words "a District Magistrate or" shall be deleted;* *(ii) for the words "by any Magistrate specially empowered by the State Government" the words "by any Judicial Magistrate specially empowered by the State Government in consultation with the High Court" shall be substituted.* *16. In section 36, for the words "District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates" shall be substituted.* *17. For section 37, the following shall be substituted, namely:—* *"37. In addition to his ordinary powers, the State Government may invest any Magistrate with the powers as specified in the fourth Schedule:* *Additional powers conferrable on Magistrates.* *Provided that in the case of Judicial Magistrates such powers shall be conferred in consultation with the High Court:* *Provided further that the State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the fourth Schedule."* *18. In section 38, for the words "conferred on" the words "delegated to" shall be substituted.* *19. After section 38, the following section shall be inserted, namely:—* *"38A. Whenever under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution any judicial powers are to be conferred on a Sessions Judge, an Additional or Assistant Sessions Judge or a Judicial Magistrate or any such Magistrate* *Powers on Judicial Magistrates to be conferred in consultation with the High Court.*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	is to be specially empowered to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may not expressly provide for such consultation.

Explanation.—For the purposes of this section, the question whether any powers are judicial shall be decided by the State Government in consultation with the High Court and such decision shall be final."

20. In section 41, to sub-section (1) the following proviso shall be added, namely :—

"*Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court.*"

21. In section 57, in sub-section (2), for the words "before a Magistrate if so required" the words "before a Magistrate having jurisdiction if so required" shall be substituted.

22. In section 63, for the words "special order of a Magistrate" the words "special order of a Magistrate having jurisdiction" shall be substituted.

23. In section 78, in sub-section (1), after the words "or Sub-divisional Magistrate" the words "or Magistrate of the first class" shall be inserted.

24. In section 88, in sub-section (6C), the words beginning with the words "of the first" and ending with the words "may be" shall be deleted.

25. In section 94, in sub-section (1) for the words "beyond the limits of the towns of Calcutta and Bombay" the words "beyond the limits of Greater Bombay" shall be substituted.

26. In section 106, in sub-section (1), the words "a District Magistrate, a Sub-divisional Magistrate" shall be deleted.

27. In section 107, in sub-section (1), for the words "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" the following shall be substituted, namely :-

"*Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or Sub-divisional Magistrate or a Taluka Magistrate specially empowered by the State Government in this behalf*".

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	28. In section 108, for the words "or a Presidency Magistrate, or Magistrate of the first class" the words "or Sub-divisional Magistrate or a Presidency Magistrate" shall be substituted.
			29. In section 109, for the words "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			30. In section 110, for the words "Presidency Magistrate, District Magistrate, or Sub-divisiondl Magistrate or a Magistrate of the first class specially empowered in this behalf by the State Government" the words "Presidency Magistrate specially empowered by the State Government in this behalf, or a District Magistrate or a Sub-divisional Magistrate" shall be substituted.
			31. In section 126,—
			(i) in sub-section (1), for the words beginning with the words "to a Presidency Magistrate" and ending with the words "first class" the words "to the Court by which an order was made to give security" shall be substituted;
			(ii) for sub-section (2), the following shall be substituted, namely:—
			"(2) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it."
			32. In section 133, in sub-section (1),—
			(i) for the words "District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class" the words "Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate" shall be substituted;
			(ii) in the last paragraph for the words "to appear before himself or some other Magistrate of the first or second class" the words "to appear before himself or some other Executive Magistrate" shall be substituted.
			33. In section 143, for the words "A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf" the words "A Presidency Magistrate specially

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	*empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate or any Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf" shall be substituted.* *34. In section 144, in sub-section (1), for the words and brackets " or of any other Magistrate (not being a Magistrate of the third class)" the words " or of any other Executive Magistrate" shall be substituted.* *35. In section 145, in sub-section (1), for the words " or Magistrate of the first class" the words " or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted.* *36. In section 147, in sub-section (1), for the words " or Magistrate of the first class" the words " or any other Executive Magistrate specially empowered by the State Government in this behalf" shall be substituted.* *37. In section 164, in sub-section (1), for the words " Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government" the words " Any Presidency Magistrate, any District Magistrate, any Sub-divisional Magistrate, any Magistrate of the first-class or any other Magistrate specially empowered by the State Government in this behalf" shall be substituted.* *38. In section 167,—* *(i) in sub-section (1), for the words " the nearest Magistrate" the words " the nearest Judicial Magistrate" shall be substituted ;* *(ii) for sub-section (4), the following shall be substituted, namely:—* *" (4) Any Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge. "* *39. In section 170, sub-section (3) shall be deleted.* *40. In section 174, in sub-section (5), for the words " or Magistrate of the first class and any Magistrate " the words " or any Executive Magistrate " shall be substituted.*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898— contd.	41. In section 186, in sub-section (1), for the words " a District Magistrate, a Sub-divisional Magistrate, or if he is specially empowered in this behalf by the State Government, a Magistrate of the first class " the words " or a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court " shall be substituted. 42. In section 187, in sub-section (1), for the words " by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate " the words " the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge " shall be substituted. 43. In section 190,— (i) in sub-section (1), (a) the words " District Magistrate or Sub-divisional Magistrate " shall be deleted ; (b) for the words " any other " the words " any Judicial " shall be substituted ; (c) after the words " in this behalf " the words " by the State Government in consultation with the High Court " shall be inserted ; (ii) in sub-section (2), the words ", or the District Magistrate subject to the general or special orders of the State Government, " shall be deleted ; (iii) in sub-section (3), after the words " The State Government may, " the words " in consultation with the High Court " shall be inserted. 44 In section 192,— (i) in sub-section (1), the words ", District Magistrate or Sub-divisional Magistrate " shall be deleted ; (ii) in sub-section (2),— (a) for the words " Any District Magistrate " the words " A Sessions Judge " shall be substituted ; (b) for the words " in his district " the words " in the sessions division " shall be substituted. 45. In section 193, in sub-section (2), after the words " the State Government " the words " in consultation with the High Court " shall be inserted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	46. In section 206, in sub-section (1),— (i) the words " District Magistrate, Sub-divisional Magistrate " shall be deleted ; (ii) after the words " State Government " the words " in consultation with the High Court " shall be inserted.
			47. In section 249, for the words " or with the previous sanction of the District Magistrate, any other Magistrate" the words " or any other Judicial Magistrate specially empowered in this behalf by the State Government in consultation with the High Court " shall be substituted.
			48. In section 260, in sub-section (1),— (i) the clause " (a) the District Magistrate ," shall be deleted ; (ii) in clauses (b) and (c) after the words " State Government " the words " in consultation with the High Court " shall be inserted.
			49. In section 261, after the words " The State Government may " the words " in consultation with the High Court " shall be inserted.
			50. In section 265, in sub-section (2), after the words " The State Government may " the words " in consultation with the High Court " shall be inserted.
			51. In section 269, in sub-section (1), after the words " The State Government may " the words " in consultation with the High Court " shall be inserted.
			52. In section 337, in the proviso to sub-section (1), the words " other than the District Magistrate " shall be deleted, and for the words " sanction of the District Magistrate " the words " sanction of the Sessions Judge " shall be substituted.
			53. In section 346, in sub-section (1),— (i) for the words " outside the presidency-towns " the words " outside Greater Bombay " shall be substituted ; (ii) after the words " District Magistrate " the words " or Sessions Judge, as the case may be, " shall be inserted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	54. *In section 349,—* *(i) in sub-section (1), for the words "to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate" the words "to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted;* *(ii) in sub-section (1A), for the words "the District Magistrate or Sub-divisional Magistrate" the words, brackets and figures "the Magistrate empowered under sub-section (1)" shall be substituted.* *55. In section 350, in proviso (b) to sub-section (1), for the words "subordinate to the District Magistrate, the District Magistrate" the words, "the Court of Session" shall be substituted; and the words "or District Magistrate" shall be deleted.* *56. In section 380, the words "or a Sub-divisional Magistrate" shall be deleted.* *57. In section 407,—* *(i) in sub-section (1),—* *(a) the word "sub-divisional" shall be deleted;* *(b) for the words "District Magistrate" the words "Court of Session" shall be substituted;* *(ii) in sub-section (2),—* *(a) for the words "District Magistrate", wherever they occur, the words "Sessions Judge" shall be substituted;* *(b) after the words "State Government" the words "in consultation with the High Court" shall be inserted.* *58. In section 408, for the words, "a District Magistrate or other" the words "or a" shall be substituted.* *59. In section 413, for the words "District Magistrate or other" the letter "a" shall be substituted.* *60. In section 428, in sub-section (1), for the words "by a Magistrate" the words "by a Judicial Magistrate", shall be substituted.* *61. In section 435,—* *(i) in sub-section (1), the words "or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf," and the Explanation to the said sub-section shall be deleted;*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	(ii) *for sub-sections (2) and (4), the following shall be substituted, namely :—* "*(2) The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement that he be released on bail on his own bond pending the examination of the record.* *(3) If any Sub-divisional Magistrate acting under sub-section (2) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate.* *(4) The High Court may call for and examine the record of any proceeding under section 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate.*" *62. In section 436,—* *(i) the said section shall be renumbered as sub-section (1) of that section ;* *(ii) in sub-section (1) so renumbered for the words "the District Magistrate by himself or by any of the Magistrates subordinate to him, to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make" the words "the Judicial Magistrate to make," shall be substituted ;* *(iii) the following new sub-section shall be added, namely :—* "*(2) On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him to make, and the*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceedings : *Provided that no District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made.".* *63. In section 437, the words "or District Magistrate" and the words "or Magistrate", wherever they occur, shall be deleted.* *64. In section 438, the words "or District Magistrate" shall be deleted.* *65. In section 479, the words ", District Magistrate" shall be deleted.* *66. In section 488, in sub-section (1), the words ", the District Magistrate," and the words ", a Sub-divisional Magistrate" shall be deleted.* *67. In section 506—* *(i) for the words "such Magistrate, shall apply to the District Magistrate" the following shall be substituted, namely :—* *"such Magistrate, if he is a Judicial Magistrate shall apply to the Sessions Judge and if he is an Executive Magistrate shall apply to the District Magistrate,";* *(ii) for the words "and the District Magistrate" the words "and the Sessions Judge or the District Magistrate, as the case may be," shall be substituted.* *68. For section 515, the following shall be substituted, namely :—* *"515. All orders passed under section 514 by an Executive Magistrate other than the District Magistrate shall be appealable to the District Magistrate and by a Judicial Magistrate other than a Presidency Magistrate to the Sessions Judge and if no appeal is made against such* *Appeal from, and revision of, orders under section 514.*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	orders they may be revised in the case of the orders passed by an Executive Magistrate by the District Magistrate and in the case of the orders passed by a Judicial Magistrate by the Sessions Judge." 69. In section 524, in sub-section (1), for the words "of a Magistrate of the first class" the words "of an Executive Magistrate" shall be substituted. 70. In section 528, in sub-section (2)— (i) for the words "District Magistrate or Sub-divisional Magistrate" the words "or Sessions Judge" shall be substituted; (ii) in the marginal note to the said sub-section, for the words "District or Sub-divisional Magistrate" the words "Chief Presidency Magistrate or Sessions Judge" shall be substituted. 71. In section 559, in sub-section (2), for the words "the District Magistrate outside such towns," the words "outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates," shall be substituted. 72. In section 561, for the words "District Magistrate", wherever they occur, the words "a Magistrate of the first class" shall be substituted. 73. In section 562, in the proviso to sub-section (1), the words "or Sub-divisional Magistrate" shall be deleted. 74. In section 565, in sub-section (1), the words "District Magistrate, Sub-divisional Magistrate" shall be deleted. 75. In Schedule II, in column 8,— (i) for the words "Any Magistrate", wherever they occur, the words "Any Judicial Magistrate" shall be substituted; (ii) in the entry relating to section 124-A, the words "or District Magistrate" shall be deleted and after the words "in that behalf" the words "in consultation with the High Court" shall be inserted; (iii) in the entry relating to section 376, for the words "District Magistrate" the words "Magistrate of the first class" shall be substituted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	76. In Schedule III,— (a) In Part I, in item (17), for the words "District Magistrate" the words "Sessions Judge" shall be substituted. (b) In Part III,— (i) after item (1) the following shall be inserted, namely :— (1a) Power to direct warrants to landholders, section 78 ; (ii) items (4), (5), (6), (6a), (7) and (7b) shall be deleted. (c) after Part III the following shall be inserted, namely :— "III-A—Ordinary powers of a Taluka Magistrate. (1) Power to arrest or direct the arrest of, and to commit to custody a person committing an offence in his presence, section 64. (2) Power to arrest, or direct the arrest, in his presence of an offender, section 65. (3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 85. (4) Power to require search to be made for letters and telegrams, section 95. (5) Power to issue search warrant, section 96. (6) Power to endorse a search warrant and order delivery of things found, section 99. (7) Power to command unlawful assembly to disperse, section 127. (8) Power to use civil force to disperse unlawful assembly, section 128. (9) Power to require military force to be used to disperse unlawful assembly, section 130. (10) Power to apply to District Magistrate to issue commission for examination of witness, section 506. (11) Power to recover penalty on forfeited bond, section 514 and to require fresh security, section 514-A. (12) Power to make order as to disposal of property, section 517. (13) Power to sell property of a suspected character, section 525."

Year.	No.	Short title.	Extent of amendment.
1	2	3	
1898	V	Code of Criminal Procedure, 1898— contd.	(d) *In Part IV,*— (i) *for item (1), the following shall be substituted, namely :*— "(1) *The ordinary powers of a Taluka Magistrate ;*" (ii) *after item (2), the following shall be inserted, namely :*— "(2a) *Power to issue search warrant otherwise than in course of an inquiry, section 98.* (2b) *Power to issue search warrant for discovery of persons wrongfully confined, section 100.* (2c) *Power to require security to keep the peace, section 107.* (2d) *Power to require security for good behaviour, section 109.*" ; (iii) *after item (3), the following shall be inserted, namely :*— "(4) *Power to discharge sureties, section 126A.* (4a) *Power to make orders as to local nuisances, section 133.*" ; (iv) *after item (6), the following shall be inserted, namely :*— "(6a) *Power to make orders etc. in possession cases, sections 145, 146 and 147.*" ; (v) *after item (8), the following shall be inserted, namely :*— "(8a) *Power to record statements and confessions during a police investigation, section 164.*" (vi) *after item (9), the following shall be inserted, namely :*— "(10) *Power to hold inquests, section 174.*" ; (vii) *items (12) to (16) (both inclusive) shall be deleted ;* (viii) *item (19) shall be deleted ;* (e) *in Part V, items (1a) (7), (8), (10), (12), (13) and (14) shall be deleted.*

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898—contd.	77. For Schedule IV, the following shall be substituted, namely:—

"SCHEDULE IV.

(See section 37.)

Additional powers with which Magistrates may be invested.

PART I.—BY STATE GOVERNMENT.

Powers with which a Magistrate of the First Class may be invested.

1. Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186;

2. Power to take cognisance of offences upon complaint, section 190;

3. Power to take cognisance of offences upon police reports, section 190;

4. Power to take cognisance of offences without complaint, section 190;

5. Power to transfer cases, section 192;

6. Power to try summarily, section 260;

7. Power to pass sentence on proceedings recorded by a Magistrate of the Second and Third Class, section 349;

8. Power to hear appeals from conviction by Magistrate of the Second and Third Class, section 407;

9. Power to try cases under section 124-A of the Indian Penal Code.

Powers with which a Magistrate of the Second Class may be invested.

1. Power to record statements and confessions during a police investigation, section 164;

2. Power to authorise detention of a person in the custody of the police during a police investigation, section 167;

3. Power to take cognisance of offences upon complaint, section 190;

4. Power to take cognisance of offences upon police reports, section 190;

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1898	V	Code of Criminal Procedure, 1898 — contd.	5. Power to take cognisance of offences without complaint, section 190; 6. Power to commit for trial, section 206; 7. Power to stop proceedings instituted otherwise than upon complaint, section 249; 8. Power to make order as to first offenders, section 562. *Powers with which a Magistrate of the Third Class may be invested.* 1. Power to record statement and confessions during a police investigation, section 164; 2. Power to take cognisance of offences upon complaint, section 190; 3. Power to take cognisance of offences upon police report, section 190; 4. Power to stop proceedings instituted otherwise than upon complaint, section 249. *PART II.* *BY STATE GOVERNMENT.* *Powers with which a Sub-divisional Magistrate may be invested.* 1. Power to call for records, section 435. *Powers with which any other Executive Magistrate may be invested.* 1. Power to make orders prohibiting repetitions of nuisances, section 143; 2. Power to make orders under section 144; 3. Power to make orders, etc., in possession cases, sections 145 and 147; 4. Power to record statements and confessions during a police investigation, section 164; 5. Power to hold inquests, section 174; 6. Power to sell property alleged or suspected to have been stolen, etc., section 524.

Year.	No.	Short title.	Extent of amendment.
1	2	3	
1898	V	Code of Criminal Procedure 1898—concld.	*By District Magistrate.* *Powers with which any Executive Magistrate may be invested.* *1. Power to make orders prohibiting repetitions of nuisances, section 143;* *2. Power to make orders under section 144;* *3. Power to hold inquests, section 174."*

PART II—OTHER CENTRAL ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1889	I	The Metal Tokens Act, 1889.	*In section 5, in sub-section (2), the words "except a District Magistrate or Sub-Divisional Magistrate," shall be deleted.*
1894	IX	The Prisons Act, 1894.	*In section 52,—* *(i) the words "of the District Magistrate or" shall be deleted;* *(ii) in the first proviso, the words "by the District Magistrate to any Magistrate of the first class and" shall be deleted.*
1897	VIII	The Reformatory Schools Act, 1897.	*1. In section 8, in sub-section (2), for the words "by the State Government in this behalf" the words "by the State Government in this behalf in consultation with the High Court" shall be substituted.* *2. In section 9, in sub-section (1), for the words "the District Magistrate to whom he is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (2) of section 8" shall be substituted.* *3. In section 10, for the words "District Magistrate" the words, brackets and figures "Magistrate specially empowered under sub-section (2) of section 8" shall be substituted.* *4. In section 11, in sub-section (2), for the words "District Magistrate" the words "Magistrate specially empowered" shall be substituted.*

Year.	No.	Short title.	Extent of amendment
1	2	3	4
1897	VIII	The Reformatory Schools Act, 1897—contd.	5. In section 31,— (i) in sub-section (4) for the words "the District Magistrate to whom such Court is subordinate" the words, brackets and figures "the Magistrate specially empowered under sub-section (2) of section 8" shall be substituted; (ii) in sub-section (5), the word "District" shall be deleted.
1900	III	The Prisoners Act, 1900.	In section 37, for the words "District Magistrate" the words "Sessions Judge" shall be substituted.
1911	X	The Prevention of Seditious Meetings Act, 1911.	In section 8, the words " or Sub-divisional Magistrate " shall be deleted.
1917	I	The Inland Steam-vessels Act, 1917.	1. In section 33, in clause (b) of sub-section (1), the words " or the Court of any District Magistrate " shall be deleted. 2. In section 35, in sub-section (1), the words " or the Court of the District Magistrate, " shall be deleted. 3. In section 38, in clause (b), the words " or the Court of the District Magistrate " shall be deleted and for the words " respectively by either Court " the words " by it " shall be substituted.
1923	IX	The Indian Official Secrets Act, 1923.	In section 13, in sub-section (1), after the words " Government " the words " or that of a Presidency Magistrate " shall be inserted and the words " which is inferior to that of a District or Presidency Magistrate " shall be deleted.
1927	XVI	The Indian Forest Act, 1927.	In section 67, after the words " The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the State Government " the words " Any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court," shall be substituted.

PART III—BOMBAY ACTS.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1867	VII	The Bombay District Police Act, 1867.	In section 34, for the words "a Magistrate of the first class" the words "the District Magistrate or any migistrate specially empowered in this behalf by the State Government" shall be substituted.
1867	VIII	The Bombay Village Police Act, 1867.	1. In section 1, the following paragraph shall be added, namely :— "The term 'Executive Magistrate' when used in this Act has the meaning assigned to it in the Code of Criminal Procedure, 1898." of 1898. 2. In section 6, for the words "the Magistrate", where they occur for the second time, the words ", any other Executive Magistrate" shall be substituted. 3. In section 8, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted. 4. In sections 9 and 9A, for the words "any Magistrate of the first class" and "Any Magistrate of the first class" the words "the Magistrate of the District" and "The Magistrate of the District" shall, respectively, be substituted. 5. In sections 19 and 21, for the words "the Magistrate" the words "the Executive Magistrate" shall be substituted.
1889	I	The Bombay Village Sanitation Act, 1889.	In section 15, in sub-section (1), for the words beginning with the words "or other-" and ending with the words "in this behalf," the words "or any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court" shall be substituted.
1929	XVIII	The Bombay Borstal Schools Act, 1929.	1. In section 8, the words "a District Magistrate, a sub-divisioanal Magistrate" shall be deleted. 2. In section 9; for the words "District Magistrate", wherever they occur, the words "Magistrate of the first class" shall be substituted.
1933	VI	The Bombay Village Panchayats Act, 1933.	1. In section 77,— (i) in sub-section (1), for the words "District Magistrate" the words "Sessions Court" shall be substituted ; (ii) in sub-section (2),— (a) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted ; (b) the words "or Magistrate" shall be deleted.

Year.	No.	Short title.	Extent of amendment.
1	2	3	4
1933	VI	The Bombay Village Panchayats Act, 1933 —contd.	(iii) in sub-section (3),— (a) for the words "District Court or District Magistrate" the words "District or Sessions Court" shall be substituted; (b) the words "or Magistrate" shall be deleted; (iv) in the marginal note to the said section, for the words "District Magistrate" the words "Sessions Court" shall be substituted.
			2. In sections 78, 79, 87, 87A and 87B and in the marginal notes to sections 87, 87A and 87B, for the words "District Magistrate", wherever they occur, the words "Sessions Court" shall be substituted.
1938	XIX	The Bombay Probation of Offenders Act, 1938.	In section 3, in sub-section (1), clauses (c) and (d) shall be deleted.
1947	LI	The Bombay Habitual Offenders Restriction Act, 1947.	In section 13,— (i) in clause (i), for the words the words "by an Executive Magistrate" shall be substituted; (ii) in clause (ii), after the words "made by" the words "a Judicial Magistrate or" shall be inserted.
1948	LXXI	The Bombay Children Act, 1948.	1. In section 8, clauses (c) and (d) shall be deleted.
			2. In section 41, for the words "District Magistrate or Sub-Divsional Magistrate" the words "Sessions Judge" shall be substituted.
			3. In section 80,— (i) for the words beginning with the words "the court shall submit" and ending with the words "to a subordinate" the words and figure "the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate" shall be substituted; (ii) in the marginal note to the said section, for the words "District Magistrate" the words "First Class Magistrate" shall be substituted.
			4. In section 94, in sub-section (2), clause (a), for the words "District Magistrate" the words "Court of Session" shall be substituted.

Council Hall
Bombay,
15th March 1951.

S. K. SHEODE,
Secretary to the Bombay
Legislative Assembly.

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PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the " Bombay Government Gazette ". The dates of publication to be reported.]

BOMBAY LEGISLATURE DEPARTMENT.

Council Hall, Bombay, 17th March 1951.

No. 1645.—With reference to the footnote to the Report of the Select Committee on L. A. Bill No. III of 1951 (A Bill to provide for the separation of judicial and executive functions in the State of Bombay) published at pages 141 to 144 of the *Bombay Government Gazette*, Part V, dated the 15th March 1951, it is notified that Shri H. V. Pataskar, M.L.A., has signed the report and that Shri M. M. A. Bhaiji, M.L.A., has signed it subject to a minute of dissent as shown below :—

Minute of Dissent by Shri M. M. A. Bhaiji, M.L.A.

I am sorry I have to differ from my colleagues of the Select Committee on the above Bill for the following reasons :—

I am of opinion that the Bill does not contemplate complete separation of the judicial and executive functions. On the contrary the District Magistrate instead of being deprived of his powers under those sections, which are of a judicial nature, has been given exclusive powers under sections 107 to 126, 133, 143 and 145 to 147 of the Criminal Procedure Code. The recommendations of the Lokur Committee providing for initiation of proceedings by the District Magistrate and the Sub-Divisional Magistrate under sections 107 to 126 and the decision on the same by Judicial Magistrates should have been accepted and incorporated in the Bill. The same should have been done with regard to sections 133, 143 and 145 to 147.

In regard to powers of revision the Select Committee has made a distinction between the record of an Executive Magistrate and a Judicial Magistrate giving to the District Magistrate revisional jurisdiction in regard to the former and to the Sessions Judge in regard to the latter. In my opinion this distinction is artificial. The revisional powers should have been taken away altogether from the District Magistrate and vested exclusively in the Sessions Judge and the High Court in regard to all Magistrates, as Executive Magistrates will have to give decisions of a judicial character under the sections quoted above.

In order to make the separation a reality the judicial powers of the District Magistrate should also have been taken away from the sections of the Criminal Procedure Code given below :—

Sections 78, 88, 95, 96, 98, 100, 186B, 322, 326, 337, 346, 373, 387, 435, 436, 437, 488, 503, 506, 514, 515, 518, 524, 528 (3), 529 (2), 552 and 556.

15th March 1951.

(Signed) M. M. A. BHALJI.

S. K. SHEODE,
Secretary to the Bombay Legislative Assembly.

Bombay, 17th March 1951.

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BOMBAY LEGISLATURE DEPARTMENT.

Council Hall, Bombay, 22nd March 1951.

No. 1747.—With reference to the footnote to the Report of the Select Committee on the draft amendments moved by the Hon. Shri Vaikunth L. Mehta to the Bombay Legislative Assembly Rules published at pages 236 to 238 of the *Bombay Government Gazette*, Part V, dated the 20th March 1951, it is notified that Shri Utsava Parikh, M.L.A., Shrimati Indirabai Deshpande, M.L.A., Dr. M. N. Natu, M.L.A., and Shri R. M. Nalawde, M.L.A., have signed the report.

22 March 1951.

S. K. SHEODE,
Secretary to the Bombay Legislative Assembly.

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